

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-16-0267
DANTE BAILEY, et al.,)
Defendants.)
_____)

Monday, March 25, 2019
Courtroom 1A
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
(AND A JURY)

VOLUME IV

For the Plaintiff:

Christina Hoffman, Esquire
Lauren Perry, Esquire
Assistant United States Attorneys

For the Defendant Dante Bailey:

Paul Enzinna, Esquire
Teresa Whalen, Esquire

Reported by:

Douglas J. Zweizig, RDR, CRR, FCRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

1 For the Defendant Randy Banks:

2 Brian Sardelli, Esquire

3 For the Defendant Corloyd Anderson:

4 Elita Amato, Esquire

5
6 For the Defendant Jamal Lockley:

7 Harry Trainor, Esquire

8 For the Defendant Shakeen Davis:

9 Paul Hazlehurst, Esquire

10
11 For the Defendant Sydni Frazier:

12 Christopher Davis, Esquire

13
14 Also Present:

15 Special Agent Christian Aanonsen, ATF

P R O C E E D I N G S

(10:04 a.m.)

THE COURT: Good morning, everyone.

All right. So is there any issue relating to the first witness?

MS. HOFFMAN: No, Your Honor.

THE COURT: All right. Then are we ready for the jury?

MR. HAZLEHURST: Your Honor, if I may, Paul Hazlehurst on behalf of Mr. Davis. There is not an issue related to the first witness.

But Mr. Davis has consistently asked me to ask the Court -- he is -- wants to know why he was not brought over for a motions hearing and why his co-defendants were not brought over for a motions hearing.

And I have explained to him, to the best of my ability, what the reason for that was. But he has asked me to ask the Court, so I am doing that now.

THE COURT: You can specify -- I don't even know which particular motions your client is concerned about. The motions that I've ruled upon, I presumably ruled on the papers and/or there was no evidence required, in which case the defendants' presence is not required.

If there are particular motions that Mr. Davis is concerned about, you can let me know the numbers.

~~DIPAOLA - DIRECT~~

1 **MR. HAZLEHURST:** I will specify. Your Honor.

2 **THE COURT:** Thank you.

3 All right. Let's get the jury.

4 (Jury entered the courtroom at 10:06 a.m.)

5 **THE COURT:** All right. Good morning and welcome back,
6 ladies and gentlemen.

7 I'm sure the Government has a few more witnesses for
8 us.

9 Ms. Perry.

10 **MS. PERRY:** Yes, Your Honor. At this point the
11 Government calls Detective Jason DiPaola.

12 **THE COURT:** All right.

13 **THE CLERK:** Please raise your right hand.

14 DETECTIVE JASON DiPAOLA, GOVERNMENT'S WITNESS, SWORN.

15 **THE CLERK:** Please be seated.

16 Please speak directly into the microphone. State and
17 spell your full name for the record, please.

18 **THE WITNESS:** My name is Jason DiPaola, J-A-S-O-N,
19 D-i-P-A-O-L-A.

20 **THE CLERK:** Thank you.

21 DIRECT EXAMINATION

22 **BY MS. PERRY:**

23 **Q.** Good morning.

24 **A.** Good morning.

25 **Q.** Where do you work?

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1 A. I work for Baltimore City Police.

2 Q. And how long have you worked for the Baltimore City
3 Police?

4 A. I'm in my eighth year.

5 Q. Can you tell us your unit and title currently.

6 A. Yes, ma'am. I'm a detective with the Anticrime Section,
7 West Side Major Case Squad.

8 Q. And how long have you been a detective with the Baltimore
9 Police Department?

10 A. Since July.

11 Q. Now, I want to direct your attention back to 2012 through
12 2016, what was your unit and title then?

13 A. 2012, I was walking foot. I was just a police officer
14 walking foot in the downtown corridor, Baltimore Street and
15 Lexington Market.

16 Q. And what about after 2012?

17 A. I went to the Northwest District, started in parole, and
18 then I went to the drug unit in Northwest.

19 Q. Now, you mentioned that you were with the
20 Northwest Drug Unit at one point.

21 What area of Baltimore does the Northwest Drug Unit cover?

22 A. It covers from Park Heights and Belvedere all the way down
23 to Garrison Boulevard, Liberty, and Gwynn Oak.

24 Q. And during your approximately eight years with the
25 Baltimore Police, did you receive any training in making

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1 drug-related arrests?

2 A. Yes, ma'am.

3 Q. Can you briefly describe that training for the jurors.

4 A. Yes. Through the academy, I had 40 hours of specialized
5 training in recollection -- or, I'm sorry, the detection of
6 narcotics and street-level enforcement. And then I took
7 another eight-hour class through St. Petersburg College for
8 multi-jurisdictional drug training. Sorry.

9 Q. Detective, approximately how many drug-related arrests
10 have you made or assisted in over the course of your career
11 with the Baltimore Police?

12 A. Approximately 1500.

13 Q. Now, you told us that you worked with the Northwest -- you
14 worked in Northwest Baltimore and that that assignment covered
15 the area of Gwynn Oak and Liberty Heights; is that right?

16 A. Yes, ma'am.

17 Q. How frequently did your work take you to or past this
18 particular intersection?

19 A. Usually on a daily basis. It was one of the more -- more
20 active areas for violence and drugs.

21 Q. Can you describe the area generally.

22 A. Yes, ma'am. The actual intersection of Liberty and
23 Gwynn Oak is -- it's got like a grocery store, a liquor store
24 on two corners, a bunch of food carryouts, and then a gas
25 station. So it's a highly traveled area, and there are a lot

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1 of drugs sold on the corners.

2 Q. And didn't you become familiar with individuals who
3 frequented that area during your time working with the
4 Northwest Drug Unit?

5 A. Yes, ma'am.

6 Q. Now, I want to take a step much further back and begin by
7 directing your attention to November 4th of 2012.

8 A. Yes.

9 Q. Remind us what unit you were in at that particular time.

10 A. At that time I was walking foot in the Lexington Market
11 and the 400 block of East Baltimore Street.

12 Q. And were you working on that particular day, on
13 November 4th of 2012?

14 A. Yes, ma'am.

15 Q. I want to direct your attention to about 2:15 in the
16 morning on that day.

17 Where were you located at that time?

18 A. I was right on the intersection of 400 East Baltimore
19 Street and the unit block south of Custom House Road.

20 Q. And what were you doing in that particular location?

21 A. That evening, we were walking foot and trying to close the
22 bars there that were in the area.

23 Q. What, if anything, happened around 2:15 on that day?

24 A. Officer Thomas and I saw -- there's like a small parking
25 lot of Custom House across the street from Norma Jean's. Saw a

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1 large group of people kind of making a disturbance -- causing a
2 disturbance in the parking lot around a silver Acura.

3 Q. Now, you mentioned "across from Norma Jean's." What is
4 Norma Jean's?

5 A. Norma Jean's is a strip club in the unit block of
6 Custom House.

7 Q. And you mentioned that there was a silver Acura in the
8 area.

9 A. Yes, ma'am.

10 Q. What did you do after you saw this group and the silver
11 Acura?

12 A. At that time we -- Officer Tonks and I approached that
13 vehicle.

14 Q. And what did you observe as you approached the vehicle?

15 A. As we started to approach it, we could smell a very strong
16 odor of marijuana coming from the area and the vehicle.

17 Q. Were you able to tell whether or not anyone was inside of
18 the vehicle?

19 A. Yes, ma'am. There was a person in the driver's seat and a
20 person in the backseat.

21 Q. Did you ultimately identify the person who was in the
22 driver's seat?

23 A. Yes, ma'am.

24 Q. Who was that?

25 A. Devon Dent.

~~DIPAOLA - DIRECT~~

1 Q. I'm going to show you what's already in evidence as
2 Government's Exhibit IND-22 -- I'm sorry, IND-21. My
3 apologies.

4 Do you recognize the individual in IND-21?

5 A. Yes, ma'am.

6 Q. Who is that?

7 A. Devon Dent.

8 Q. And did you -- over the course of your time as a Baltimore
9 police officer, did you become familiar with Mr. Dent?

10 A. Yes, ma'am.

11 Q. And do you know if he has any aliases that he goes by?

12 A. He has a nickname of Tech.

13 Q. You also mentioned that there was someone in the backseat
14 of the car.

15 A. Yes, ma'am.

16 Q. Could you identify that person?

17 A. Yes, ma'am.

18 Q. Who was that?

19 A. Desean McCorkle.

20 Q. I'm going to show you IND-63.

21 Do you recognize this individual?

22 A. Yes, ma'am.

23 Q. Who is that?

24 A. Desean McCorkle.

25 Q. You also -- you've already mentioned several times that it

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1 was a silver Acura. Were you able to determine the license
2 plate on that particular car?

3 **A.** Yes, ma'am.

4 **Q.** What was the license plate?

5 **A.** Would you mind if I could read the notes? I don't
6 remember off the top of my head.

7 **Q.** Would perhaps looking at your report refresh your
8 recollection as to the plate number?

9 **A.** Yes, ma'am.

10 **MS. PERRY:** Your Honor, permission to approach the
11 witness?

12 **THE COURT:** Certainly.

13 **BY MS. PERRY:**

14 **Q.** (Handing.)

15 **A.** Thank you.

16 **Q.** Detective, if you could just take a look at that and let
17 us know if it refreshes your recollection.

18 **A.** Yes, ma'am.

19 **Q.** Can you tell us what the plate was.

20 **A.** Yes. It's 3, Adam, Tom, 9858.

21 **Q.** Now, you mentioned it was 3, Adam, Tom, does that just
22 mean 3AT?

23 **A.** Yes, ma'am. 3; A, as in Adam; T, as in Tom. I'm sorry.

24 **Q.** And the last four were?

25 **A.** 9858.

~~DIPAOLA - DIRECT~~

1 Q. Officer -- or, Detective, when you approached the car, was
2 there anyone else in the area that you recognized?

3 A. Yes, ma'am.

4 Q. Who else was in the area?

5 A. A male by the name of Dante Bailey. I'm sorry.

6 Q. And where was Mr. Bailey?

7 A. He started to approach the passenger side of the vehicle.

8 Q. I'm going to show you IND-3.

9 Do you recognize this person?

10 A. Yes, ma'am.

11 Q. Who is this?

12 A. Dante Bailey.

13 Q. Now, you've already testified that you approached the car
14 and were able to identify the individuals in the car. What did
15 you do next?

16 A. At that time, due to the smell of the marijuana and also
17 there was open containers, I believe it was a bottle of Patron
18 in the front passenger cup holder, the keys were in the
19 ignition, and Mr. Devon Dent was in the driver's seat, we asked
20 both to step out of the vehicle to further our investigation.

21 Q. What did you do next?

22 A. At that time Officer Tonks and Officer McCarthy began to
23 search the vehicle looking for the smell -- the odor of
24 marijuana that was coming from it.

25 Q. And was anything ultimately recovered from inside of the

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1 car?

2 **A.** Yes, ma'am. Inside the car was a paper towel in the cup
3 holder that had a large amount of white rock substance that was
4 suspected to be cocaine; another 27 bags of brown/tan powder,
5 which was suspected to be heroin; and in the trunk of the
6 vehicle was a clear plastic bag containing green plant
7 substance, which was marijuana.

8 **Q.** Was there anything else recovered from inside the car
9 other than the drugs you just described?

10 **A.** Yes, ma'am. There was a wallet that didn't belong to
11 anybody in the vehicle, some gang material paperwork, and a CD.

12 **Q.** Now, I want to start with the drug evidence you just
13 described, and I'm going to show you what's been marked as
14 Government's Exhibit D-1 for identification.

15 **MS. PERRY:** Your Honor, permission to approach the
16 witness?

17 **THE COURT:** Yes.

18 **BY MS. PERRY:**

19 **Q.** (Hanging.)

20 Showing you in front of you what has been marked as
21 Government's Exhibit D-1, do you recognize this?

22 **A.** Yes, ma'am.

23 **Q.** What is it?

24 **A.** This is the package of when we submitted the actual CDS.

25 This was -- this is all the drugs inside.

~~DIPAOLA - DIRECT~~

1 Q. And so are the -- is the -- what you believe to be
2 crack cocaine as well as the heroin and marijuana contained in
3 D-1?

4 A. Yes, ma'am.

5 Q. And was Government's Exhibit D-1 ultimately submitted to
6 the police, the Baltimore Police laboratory for testing?

7 A. Yes, ma'am.

8 Q. Now, you mentioned that there was also a wallet recovered.
9 Where was that recovered from?

10 A. I believe that and the paperwork and the CD were in the
11 passenger-side door, the little storage compartment.

12 Q. I'm going to show you what has been marked as Government's
13 Exhibit GP-2 and GP-3.

14 MS. PERRY: Permission to approach?

15 THE COURT: Yes.

16 BY MS. PERRY:

17 Q. (Hanging.)

18 Can you tell us what's contained in the exhibit in front
19 of you.

20 A. Yes, ma'am. There's the -- do you mind if I take it out?

21 Q. Please.

22 A. That's a wallet (indicating) that belonged to another
23 individual who was not in the vehicle at the time. This is the
24 gang paperwork and materials that were in the vehicle
25 (indicating).

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1 Q. Now, I'd like to show you what I've marked as Government's
2 Exhibits 3A --

3 THE COURT: Ms. Perry, I'm not sure he had finished.

4 MS. PERRY: Oh, I'm sorry.

5 THE WITNESS: These are the extra license plate tags
6 that were inside the vehicle also. I'm sorry.

7 BY MS. PERRY:

8 Q. My apologies.

9 A. And the CD that went with it (indicating).

10 Q. Thank you.

11 A. You're welcome. Sorry.

12 Q. So now I do want to turn your attention to
13 Government's Exhibit 3A -- sorry, GP-3-A.

14 Do you recognize what we're looking at here on the screen?

15 A. Yes, ma'am.

16 Q. What is this?

17 A. That's the wallet.

18 Q. This is a photograph of the wallet that you recovered on
19 that particular night?

20 A. Yes, ma'am.

21 Q. And turning your attention now to GP-3-B, what are we
22 looking at here?

23 A. That is their insurance card and a picture of a person.

24 Q. And is this the inside of the wallet that you just
25 described?

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1 A. Yes, ma'am.

2 Q. Turning now to GP-3-C, can you tell us what we're looking
3 at here.

4 A. Yes. The name of -- on the insurance card of the person's
5 wallet.

6 Q. And what is that name?

7 A. Davon Temple.

8 Q. And turning to GP-3-D, what are we looking at here?

9 A. Looks like his dental card for Davon Temple.

10 Q. And finally, GP-3-E?

11 A. A prescription for Davon Temple.

12 Q. And were all of these items contained in GP-3, the wallet
13 that is in front of you?

14 A. Yes, ma'am.

15 Q. Now, I want to turn to the gang paperwork. I believe you
16 mentioned that the gang paperwork was recovered inside the door
17 of the car.

18 A. Yes.

19 Q. Was all the paperwork together --

20 A. Yes, ma'am.

21 Q. -- in the door of the car?

22 A. Yes, ma'am.

23 Q. So I want to turn your attention to GP-2-A.

24 What are we looking at here?

25 A. That is the front page of the gang material that I found.

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1 Q. And is this a copy of the materials that were contained in
2 GP-2 in front of you?

3 A. Yes, ma'am.

4 Q. Now, I do want to walk you through a portion of this, but
5 I would like to hand you a paper copy, because I think it might
6 be easier for you to take a look at.

7 MS. PERRY: Your Honor, permission to approach the
8 witness?

9 THE COURT: That's fine.

10 BY MS. PERRY:

11 Q. (Hanging.)

12 So starting here on the first page of GP-2-A, can you tell
13 us what it says here at the very top.

14 A. My All Family I Am.

15 Q. And turning now to Page 2, can you tell us what it says
16 here in bold (indicating).

17 A. Yes. It says [reading]: Keeping our hearts beating
18 double time. As long as you live, I live. And I not only live
19 for me; I live for you.

20 Q. Now, turning to Page 3.

21 A. Yes. Says [reading]: La Cosa Nostra, 2012 edition,
22 La Cosa Nostra is a reflection and reminder of why we are here
23 and how we get here -- we got here. September 20th of every
24 year, we will celebrate, for this is the day a legacy was born.

25 Q. Turning now to Page 4, can you read what's here in the

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1 middle of the page (indicating).

2 **A.** Yes. [Reading]: We hold the birthright to
3 Insane Red Devil Treetop Piru. That was a gang only in
4 Maryland. It never existed anywhere else. Baltimore City made
5 Insane Red Devil Treetop Pirus famous. As you all know, Insane
6 was a most loved and hated gang in our city's history, and we
7 are all descendants from that era.

8 **Q.** Okay. Turning to Page 7.

9 **A.** [Reading]: In February 2008, a 28-person indictment
10 rocked the Treetop Piru family, marking the first Blood gang
11 RICO case ever in Baltimore City's history. During that time
12 of duress, a lot of turmoil happened that those -- or that once
13 considered themselves brothers who would kill, who would ride,
14 and who would even die for one another, because of federal
15 intimidation, became adversaries to each other. With the
16 ejection of Chu because of his snitching, the oldest triple OG
17 was Wild Child; thus, he became the leader of the Treetop Piru
18 family.

19 **Q.** And can you read for us what's the last couple of
20 paragraphs on the next page.

21 **A.** Yes. [Reading]: Tree was long destroyed before that
22 occurred. The Government destroyed it by creating separation
23 between brothers. From that separation, a new foundation was
24 established, a foundation that had to be built on loyalty first
25 and honor second, a foundation that thrived off of being

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1 respected and loving the feeling of just being looked at as a
2 stand-up type. Loyalty being royalty; thus, being honorable
3 meant never to have your name in question in regards to
4 anything that had anything to do with cowardice. In Murdaland,
5 the mafia was built.

6 [Reading]: Murdaland Mafia Piru, the name alone said a
7 lot. It didn't just target the Mecca of the state, Baltimore,
8 like other blood gangs that came into their own like BTTP, BRL,
9 or BHL. Murdaland targeted the entire state. It gave those
10 that loved this life a chance to become a part of our own
11 history [sic] instead of living out the history of our
12 counterparts 3,000 miles away.

13 [Reading]: Murdaland gave us back strength. And it gave
14 us something to believe in, something to put our all in,
15 something to live for -- sorry -- thus, something to be proud
16 to die for. It represents the place where we were birthed, the
17 land that we protect, the location that we bang, slang, and
18 hang. It represents our turf. Being a good leader, BG chose
19 those that he saw fit to lead at the time of the induction of
20 Murdaland, those that he felt had ability to lead and whose
21 characters -- or characters were unquestioned.

22 Q. Turning to the next page here --

23 MR. ENZINNA: Your Honor, the detective is reading
24 from a hard copy which doesn't seem to be the same with what's
25 on the screen, so I would just ask that the hard copy be

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1 marked.

2 **THE COURT:** Sure. We can have a paper copy marked and
3 perhaps you can -- it should be, I assume, the same as what's
4 on the screen.

5 **MS. PERRY:** Yes, Your Honor. There are certain
6 portions which are highlighted on the detective's copy, just
7 portions of the exhibit that he's reading from. But certainly
8 I have no problem marking Government's Exhibit 2A as the paper
9 copy.

10 **BY MS. PERRY:**

11 **Q.** So, Detective, looking here up at the top in this very
12 first paragraph, can you read us this first paragraph.

13 **A.** Yes, ma'am.

14 [Reading]: Those chosen were those closest to him:
15 Lucky, Werewolf, Murda, Silent, Brock, Darqu, Black Blizz,
16 Ways, and Shooter. The mob flourished in West Baltimore within
17 the Gwynn Oak area under the tutelage of Dirt, who was a
18 reflection of Murda. A reflection of Werewolf came to the
19 streets and reported to the queen, Bhandie. His name was
20 Lil Nick. Other reputable names that deserve mention are
21 Reckless and Tech from Gwynn Oak -- the Gwynn Oak area. They
22 represented Murdaland to the fullest on the streets.

23 **Q.** Now, Detective DiPaola you mentioned that your patrol took
24 you by the Gwynn Oak area of Baltimore on a regular -- on a
25 frequent basis. Did you become familiar with someone who went

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1 by the name of Dirt?

2 **A.** Yes, ma'am.

3 **Q.** And who was that?

4 **A.** Randy Banks.

5 **Q.** Now, turning down here to the bottom paragraph on this
6 page, can you tell us what Government's Exhibit GP-2 says.

7 **A.** Yes, ma'am.

8 [Reading]: On January 21st, 2011, Wolf was suddenly,
9 immediately released from federal custody because of a
10 non [sic] pro tunc petition that he had going since 2009. When
11 he hit the streets, the life was separated. The legacy that
12 those mentioned before created was now gone. Murdaland was
13 functioning, but at a capacity doomed to fail.

14 [Reading]: There was no strong leadership who had the
15 gall to step up to the plate and question the things that were
16 happening within the B life. There were kids who knew no
17 better attempting to play the role of Gs.

18 **Q.** Turning to the next page, can you read these middle two
19 paragraphs for us.

20 **A.** Yes. [Reading]: When Wolf saw this, he began -- he --
21 I'm sorry.

22 [Reading]: When Wolf saw this, him being a groomed,
23 authenticated G, he did what was necessary. First, he got his
24 family together and set an agenda. He placed those that needed
25 to be in position in the proper spots for the family to

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1 prosper. Those that were already in position but didn't
2 deserve to be were quickly oust by aggression.

3 [Reading]: Dirt was placed in control of the West, and
4 Silent was placed in control of the East. Silent's position
5 was eventually revoked when him and his seed got handled and
6 they disappeared, never to be seen again. So the East landed
7 into the hands of Killa from Ilchester and Greenmount, a/k/a,
8 the 4. Wolf had seed -- Wolf had a seed over there by the name
9 of Gambino, who eventually became a leader in his own right.
10 And he was the first to earn a pinky ring from the boss
11 himself.

12 Q. I'm turning now to a section here in the middle.

13 Can you read us this portion.

14 A. Yes, ma'am.

15 [Reading]: Moon was put out of the family because he
16 wouldn't handle business on a rat that was telling on his
17 brothers. He took flight. Instead of manning up, he ducked
18 out.

19 Q. And the last sentence of that paragraph?

20 A. Yes.

21 [Reading]: KOMO easily -- Easy sat at the top with T-Rock
22 and Sheisty as the Gs for the street.

23 Q. Turning to the next page, can you read us a portion from
24 this -- a couple of portions from this top paragraph.

25 A. Yes.

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1 [Reading]: From mob gained Laretta and Warwick as one of
2 its blocks through Nizzy. Tracy, who is Wild Child's son's
3 mother, was also chosen to be a part of the mafia. During her
4 month of training, she did a dishonorable thing and denounced
5 her role in the mob because of some personal dislikes.

6 [Reading]: Wolf felt blatantly disrespected, so he found
7 the leader, Mike Leroy, and questioned him about the situation.
8 Wolf told him that Tracy was not to rep anything if it wasn't
9 mob, but he refused the order. Thus, he got -- he got his
10 issue on sight.

11 Q. And then the last sentence of the next paragraph and the
12 next -- the paragraph following that.

13 A. Yes, ma'am.

14 [Reading]: Wolf let her live, hoping that she would learn
15 from her mistake. Territories were established as mob hoods:
16 GO, Ilchester, 5200, Laretta and Warwick, Harlem and Dukeland.
17 Upon B-Easy's release, the streets were being built. Now was
18 time for the prison system to get right.

19 Q. Now, Detective, skipping ahead to the next page, can you
20 read us the title of this particular page.

21 A. "The Mafioso Way."

22 Q. And then this first question?

23 A. [Reading]:

24 Who are the founders of LaEMM?

25 We are.

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1 Why does LaEMM exist?

2 To separate the strong from the weak, the real from the
3 fake, and to protect the interests of this blood line.

4 **Q.** Turning down to -- skipping ahead one question, can you
5 read us this question and answer.

6 **A.** Yes.

7 [Reading]:

8 What is LaEMM's blood line?

9 We are 600 percent Murdaland, 60 [sic] percent mafia, and
10 70 [sic] percent Piru. 60 [sic] percent Murdaland symbolizes
11 that through the 6 mafia morals embedded in us, we become
12 100 percent M gang riders. 60 percent mafia symbolizes why we
13 always give more than half in effort in everything that we do.
14 The 7 percent Piru symbolizes our connection with blood, our
15 gift that connects us with others around the world.

16 **Q.** And skipping ahead . . .

17 **A.** [Reading]:

18 What are our colors?

19 Red for the blood line that ties us together. Black for
20 our dominance over all. Green for the financial security that
21 we have amongst us through collective saving.

22 Who is our enemy?

23 Anyone who poses a threat to our existence, anyone who
24 opposes us.

25 **Q.** And skipping ahead one more page, can you read the top of

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1 this page.

2 **A.** Yes.

3 [Reading]:

4 What are the two mottos of LaEMM?

5 Family over everything, get money or get lost.

6 **Q.** Now, I'd like to skip ahead to Page 19. Can you tell
7 us -- can you read for us this middle section again.

8 **A.** Yes, ma'am. That's the seven laws of death.

9 [Reading]:

10 One, any acts or attempted acts of treason.

11 Two, any cooperation with authorities that lead to
12 incriminating others.

13 Three, any transgression against family without
14 authorization.

15 Four, the display of any -- enemy characteristics.

16 Five, when at war, fight like you're ready to die.

17 Six, whenever we forced to strike, our only option is to
18 kill.

19 And, seven, any form of slander against my [sic] family
20 member without facts.

21 **Q.** Moving on to Page 22, can you read us the title and the
22 first three numbers on this page.

23 **A.** Yes, ma'am.

24 [Reading]:

25 Seven mob mandates.

~~DIPAOLA - DIRECT~~

1 One, family first. The agenda of LaEMM is before all.

2 Two, never let your emotions overpower your intelligence.

3 And, three, retaliation is a must.

4 **Q.** Turning to Page 24, can you read us this paragraph down
5 here (indicating).

6 **A.** Yes. The prospect legacy.

7 [Reading]: If you're not born into this family or vouched
8 for by one of the elders, then you are automatically placed
9 into the realm of the prospect. Prospects are placed under
10 immediate 26-day investigation that invades every aspect of
11 their life. Even those entire [sic] society from prison -- who
12 enter, I'm sorry, enter society from prison are subjected to
13 being categorized as a prospect if they are not vouched for by
14 the elders behind the G wall.

15 **Q.** And turning to the next page, I'm just asking you about
16 one sentence here in the middle.

17 **A.** [Reading]: The QOD is obligated to bless all the children
18 of LaEMM in -- at birth by kissing them on both of their
19 cheeks, then whispering the Omertà code in their right ear.

20 **Q.** And the last paragraph on this particular page?

21 **A.** [Reading]: After the 26-day investigation and the
22 prospect proves to be worthy, then they are officially and
23 blessed in with the blood and honor oath. If they are not
24 worthy, two things are optional. The first, death at all cost,
25 because info was received that could be of great detriment to

~~DIPAOLA - DIRECT~~

1 the family. The family member who sponsored this prospect will
2 also be penalized.

3 [Reading]: The second option is that they will remain on
4 prospect status forever. They were not strong enough to fit
5 into our family, but they were not liabilities; thus, they
6 became sympathizers.

7 Q. Moving ahead a couple of pages, can you read us the first
8 portion of this paragraph here at the top.

9 A. [Reading]: After the 26th hour, the new brother is sent
10 to the five-star general of the Wolf pack legacy where all
11 males in society fall under. The five-star general asks the
12 new brother: What them EMMs pee like? The new brother will
13 spit the Omertà code's first two lines. Then the five-star
14 general will finish with him saying the last two.

15 Q. And can you tell us the first sentence in this third
16 paragraph.

17 A. [Reading]: The house of finance is overseen by a boss of
18 all bosses.

19 Q. And then the last paragraph?

20 A. [Reading]: Once the BOB appoints a boss, a boss has the
21 ability to built his brand with -- within his own financial
22 district. His lineup consists of two underbosses. One
23 underboss is the spokesman for the boss. Everything that the
24 boss wants done is told to his right-hand UB. This UB is
25 responsible for getting all info from the boss onto the boss's

~~DIPAOLA - DIRECT~~

1 regime through his two capos. The left-hand UB is not a
2 talker. He is the boss's enforcer. When he comes, things will
3 get physical. He is the boss's muscle, as well as the
4 disciplinarian system. These two underbosses are appointed to
5 keep balance within the boss's regime.

6 **Q.** Moving on to the top of the next page.

7 **A.** The right-hand underboss's two capos are responsible for
8 building the regimes of soldiers and are responsible for
9 properly preparing them to do the things needed to be done that
10 are sent down from the boss. They have the ability to appoint
11 one lieutenant each. The sole purpose for any lieutenant in
12 the house of finance is to collect money and that is all. He
13 is also responsible for collecting the dues money from all of
14 the soldiers that are a part of his regime. The soldiers are
15 those who put in the footwork.

16 Sorry.

17 **Q.** Turning to the next page, just the sentence here in the
18 middle.

19 **A.** Yes.

20 [Reading]: We prepare ourselves for -- by training
21 soldiers to defend our family.

22 **Q.** Flipping down to the next page to this last paragraph.

23 **A.** [Reading]: The Wolf pack legacy is how the men of LaEMM
24 move in society. Our family in society is built like any
25 successful organization. Our foundation is a firm financial

~~DIPAOLA - DIRECT~~

1 system that consistently accumulates funds. Like wolves, we
2 band together and mark our territory. We expand our territory
3 by educating ourselves. We keep our territory by defending
4 ourselves. We crush those who get in the way of our longevity.

5 Q. That was the sentence that continued onto the next page?

6 A. Yes, ma'am.

7 Q. So turning to the paragraph here in the middle of the
8 page, can you read that for us.

9 A. Yes.

10 [Reading]: The rock of blood and honor. In a world
11 dominated by others, the reality for some family members is
12 prison; therefore, we must properly prepare ourselves to be a
13 dominant force behind the G wall receiving our percentage of
14 the monetary proceeds which are abundant within the penal
15 atmosphere.

16 Q. Down here?

17 A. [Reading]: For the sole purpose of building LaEMM's
18 foundation within the prison system.

19 Q. I'll skip to Page 33. I'm looking here at the first
20 sentence of this last paragraph. Can you tell us what that
21 says.

22 A. Whenever an unvouched-for family member is released,
23 within the first 26 days, they must be vouched for by a boss
24 from behind the G wall.

25 Q. And then jumping ahead to the very -- or the -- to

~~DIPAOLA - DIRECT~~

1 Page 36, can you tell us what the bottom of this page says.

2 A. Yes, ma'am. It's [Reading]: LaEMM 4 life.

3 Q. I want to turn to the next page of Government's

4 Exhibit 2A. Can you tell us what we're looking at here on

5 Page 37.

6 A. Yes, ma'am. This seems to be a letter from jail.

7 Q. And can you just tell us who the letter is addressed to.

8 A. Guttaman.

9 Q. And what's the first line?

10 A. [Reading]: What it do G? I hope all is well with you.

11 Q. Now, I want to direct your attention to the last line of
12 this second paragraph.

13 Can you tell us what that says.

14 A. Yes.

15 [Reading]: I really need those 50 brooks of frenemies.

16 Q. Now I want to jump ahead to the second page. Can you tell
17 us what this last part says.

18 A. [Reading]: Tell Bino I send my love.

19 Q. And just to be clear, Detective, was that just a portion
20 of Government's Exhibit 2A that we read?

21 A. Yes, ma'am.

22 Q. Detective, did there come a time when you listened to a
23 jail call that was related to this incident?

24 A. Yes, ma'am.

25 Q. So at this point I want to play you what has come into

~~DIPAOLA - DIRECT~~

1 evidence as a jail call from Government's Exhibit JAIL-1. This
2 is J7.

3 **THE COURT:** Should the jury be turning to the
4 transcript book?

5 **MS. PERRY:** Yes. So turning, first, to the jail call
6 section of your transcript book, beginning on Page 25.

7 **BY MS. PERRY:**

8 **Q.** So looking first over here on the right-hand side of the
9 screen, can you tell us who the inmate was making this
10 particular call.

11 **A.** Yes, ma'am. It was Devon Dent.

12 **Q.** Okay. So I'm going to play the call but begin at about
13 12 minutes and 50 seconds into the call.

14 **MS. PERRY:** And for the members of the jury, this will
15 be the bottom of Page 28 in the transcript binder.

16 (Audio was played but not reported.)

17 **BY MS. PERRY:**

18 **Q.** I'm going to stop the call right there.

19 Agent DiPaola, did you hear where the caller said: Desean
20 was in the car; Desean was in the back?

21 **A.** Yes.

22 **Q.** And did you hear the part where the caller said: And in
23 his car, he got out the car when the police came?

24 **A.** Yes.

25 **Q.** Detective, I want to jump ahead a few years and direct

~~DIPAOLA - DIRECT~~

1 your attention to May 12th of 2016.

2 Can you remind us what unit you were working for at this
3 particular time.

4 A. Yes, ma'am. I was working for the Northwest District drug
5 unit.

6 Q. And did you make an arrest on May 12th of 2016?

7 A. Yes, ma'am.

8 Q. Who was arrested on that day?

9 A. I arrested Glenn Shelton, Eric Jordan, and Randy Banks.

10 Q. And if you saw Mr. Banks again, would you recognize him?

11 A. Yes, ma'am.

12 Q. Could you please look around the courtroom and let us know
13 if you see him.

14 A. Yes.

15 Q. And if you do, point to him and indicate an article of
16 clothing.

17 A. The yellow shirt, yellow button-down shirt.

18 Q. Do you know if Randy Banks went by any other names on the
19 streets?

20 A. Yes; Dirt.

21 Q. So I want to direct your attention to May 12th of 2016 at
22 about 9:00 p.m. Were you working at that particular time?

23 A. Yes, ma'am.

24 Q. Where were you at about 9:00 p.m. that evening?

25 A. I was in the 5500 block of Gwynn Oak Avenue in a covert

~~DIPAOLA - DIRECT~~

1 location.

2 Q. Can you tell us what you mean by a "covert location."

3 A. Yes, ma'am. I was basically concealing myself, hiding
4 from the suspected drug dealers who were selling across the
5 street. I was trying to put together a CDS investigation, and
6 I was watching and observing the transactions going on in the
7 area.

8 Q. Now, you just mentioned a CDS case. What does CDS stand
9 for?

10 A. CDS is controlled, dangerous substances.

11 Q. So where were you located specifically? Where was your
12 covert at about 9 o'clock that evening?

13 A. I was in a empty field next to a vacant house, kind of in
14 some bushes behind some trees.

15 Q. And what were you observing?

16 A. I was observing 5509 Gwynn Oak. It's a large, vacant
17 house. Late at night it provides a real dark corner. And
18 through my training, knowledge, and experience and complaints
19 from other officers and 9-1-1 calls, I know that they sell
20 drugs in that dark, concealed area.

21 Q. Now, I want to show you Government's Exhibit MAP-15.

22 Can you tell us what we're looking at here.

23 A. Yes, ma'am. That's an aerial shot of the Gwynn Oak area.

24 Q. And if you could, using your finger on the screen, can you
25 tell us where you were located that evening.

~~DIPAOLA - DIRECT~~

1 **A.** Yes, ma'am (indicating).

2 **Q.** And where were you surveilling?

3 **A.** Oh, I'm sorry. That's the wrong one -- wrong lot.

4 I was right -- right here, surveilling that area
5 (indicating).

6 **Q.** Now, you mentioned that you were surveilling a particular
7 house. What was the address of that location, if you recall?

8 **A.** 5509 Gwynn Oak.

9 **Q.** I'm going to show you MAP-16.

10 Do you recognize this?

11 **A.** Yes, ma'am.

12 **Q.** What are we looking at here?

13 **A.** That's 5509 Gwynn Oak. And to the -- to this area here
14 (indicating) is the -- late at night it's very dark, and it
15 casts a huge shadow back there.

16 **Q.** And you're, just for the record, indicating the house
17 directly in the center of Government's Exhibit MAP-16?

18 **A.** Yes.

19 **Q.** Now, before we jump into what you saw from that location
20 on that particular evening, can you tell the members of the
21 jury a little bit about how your operation was set up.

22 **A.** Yes, ma'am. So I was in covert by myself. I had a radio
23 and I had two arrest teams set up, one on the east side and one
24 on the west side to get whatever buyers would come in whatever
25 directions they would disappear to.

~~DIPAOLA - DIRECT~~

1 Q. And so just to be clear, you were observing the location,
2 and you were prepared to call out over your radio to other
3 members of your team who were in the area?

4 A. Yes, ma'am.

5 Q. So at approximately 9:00 p.m., tell us what, if anything,
6 happened.

7 A. I saw a black male wearing all black, kind of standing on
8 the front right corner. If you're looking at the house, it
9 would be the front right corner of 5509 Gwynn Oak. He's
10 standing there by himself. I know that the houses are vacant.
11 I know that's where they sell drugs at.

12 I saw another male who I did not know approach that male.
13 I could see him hand him a paper currency. And in exchange, he
14 gave him a small object. Through my training and experience in
15 that area, I know that I just witnessed a hand-to-hand drug
16 transaction.

17 Mr. Shelton -- I'm sorry.

18 The buyer then turned and walked away from Mr. Jordan, who
19 was standing on the corner.

20 Q. So let me unpack that a little bit.

21 You said you saw an individual standing on the corner.
22 Did you later learn that individual's name?

23 A. Yes.

24 Q. Who was that?

25 A. Eric Jordan.

~~DIPAOLA - DIRECT~~

1 Q. And you said you saw an individual approach Mr. Jordan?

2 A. Yes.

3 Q. Did you later learn that individual's name?

4 A. Yes.

5 Q. And who was that?

6 A. Glenn Shelton.

7 Q. Now, I believe you said you saw some sort of U.S. currency
8 exchanged. Who handed the U.S. currency to who?

9 A. Mr. Shelton handed Mr. Jordan the currency and then
10 Mr. Jordan then handed him a small object. Through my
11 training, knowledge, and experience, that would be consistent
12 with small, prepackaged drugs, CDS.

13 Q. Where did Mr. Shelton and Mr. Jordan go after you saw
14 this?

15 A. Mr. Jordan stand -- stood on the same corner, didn't
16 leave. And Mr. Shelton, I believe, walked eastbound back onto
17 Rogers Avenue.

18 Q. When you observed this, what did you do?

19 A. At that time I used my radio to notify my arrest team. I
20 gave a description of Glenn Shelton and the direction of travel
21 he was walking.

22 Q. Did there come a time when you received a response back
23 from a member of your team?

24 A. Yes, ma'am.

25 Q. Without telling us what that member of your team said,

~~DIPAOLA - DIRECT~~

1 what did you do?

2 **A.** I continued my -- making my observations for the CDS
3 investigation.

4 **Q.** Why?

5 **A.** Just to continue the investigation to make it a better
6 case.

7 **Q.** What happened next?

8 **A.** Next a blue Hyundai Sonata parked in the block and a male
9 exited and walked up to Eric Jordan, talked to him for a
10 second, and then walked to the back to the shadow.

11 **Q.** And do you know who this particular individual was?

12 **A.** Yes, ma'am.

13 **Q.** Who was that?

14 **A.** Randy Banks.

15 **Q.** What happened after you saw Mr. Banks arrive?

16 **A.** A few minutes later, an additional four males that went
17 unidentified approached and walked to the back of the house.

18 **Q.** And where was Mr. Banks when those individuals arrived?

19 **A.** He was still in the back of the house.

20 **Q.** What happened next?

21 **A.** Mr. Banks then came from -- back from the street from
22 behind the house and met with a male on the -- on the steps
23 right in front of 5509 Gwynn Oak. Like right next to the
24 street, it's a long walkway to the house. So he was right on
25 the street talkin' to him.

~~DIPAOLA - DIRECT~~

1 Q. And what did you observe them doing?

2 A. They were just having a conversation.

3 Q. What happened next?

4 A. A silver, I believe, Mitsubishi pulled up, and a female
5 exited the vehicle. She was later identified as Trayvon James.
6 She approached Mr. Banks, and Mr. Banks then pointed her to
7 Eric Jordan. She got back to Eric Jordan, and he then pointed
8 her to the back of the house.

9 It was very quick. Like maybe a minute, minute later, she
10 walked back out, got into the vehicle, and left.

11 Q. After she got back into the vehicle and left -- at the
12 time she got back into the vehicle and left, where was
13 Mr. Banks?

14 A. He was still on the front sidewalk having a conversation
15 with somebody.

16 Q. And after she got into the vehicle and left, what did you
17 do?

18 A. I notified our arrest team again.

19 Q. And did you provide them any information?

20 A. Yes, ma'am. I provided them the description of the
21 vehicle and the direction of travel and the passenger. I let
22 him -- let them know that the passenger was a person who
23 received the suspected drugs.

24 Q. Did there come a time when you received a response back
25 from a member of your team?

~~DIPAOLA - DIRECT~~

1 **A.** Yes, ma'am.

2 **Q.** Without telling us what that member of your team said,
3 what did you do?

4 **A.** I continued to conduct surveillance in that -- on that
5 same corner.

6 **Q.** What happened next?

7 **A.** A white Mercury Marquis pulled up. A male exited that
8 vehicle, who was -- I can't remember his name.

9 **Q.** Did you later identify that individual?

10 **A.** Yes, I later identified him. He walked up to Mr. Banks
11 again. Also, Mr. Banks pointed him back to Eric Jordan.
12 Eric Jordan then sent him to the rear of the house. Same
13 thing: A minute later, he came back out, got into his vehicle,
14 and left. And I had notified our arrest team of the make/model
15 of the vehicle and the direction of travel.

16 **Q.** And did there come a time again when you received a
17 response back from the members of your team?

18 **A.** Yes, ma'am.

19 **Q.** And without telling us what they said, what did you do?

20 **A.** I continued to surveil and requested the help of our
21 aviation unit, Foxtrot.

22 **Q.** Now, before I get into what happened next, I just want to
23 ask you, based on your training, what did you believe was going
24 on at this location?

25 **A.** I believed that Eric Jordan and Randy Banks were directing

~~DIPAOLA - DIRECT~~

1 sales of -- the sales back to where the dealers were actually
2 sitting and hitting all the sales.

3 Q. So you said at that point you requested backup. Who did
4 you request backup from?

5 A. The aviation unit.

6 Q. And when you say "the aviation unit," can you just tell us
7 what you mean.

8 A. Foxtrot, our helicopter unit.

9 Q. And did there come a time when Foxtrot arrived?

10 A. Yes, ma'am.

11 Q. About how long later did Foxtrot arrive?

12 A. I really don't remember. It wasn't too long. I think the
13 whole thing took maybe 30 minutes for -- from start to finish
14 of the investigation.

15 Q. And when Foxtrot did arrive, what happened?

16 A. They actually -- Foxtrot actually beat our guys there, my
17 arrest teams, and they had the spotlights.

18 Mr. Banks and Eric Jordan were looking at the helicopter
19 and quickly realized that the helicopter was focusing in on
20 them, and everybody took off running in different directions.

21 Q. And what did you do?

22 A. At that time our arrest team showed up and gave chase,
23 caught Mr. Jordan. And I came out of my covert location and
24 saw Mr. Banks coming back across Gwynn Oak, trying to get to
25 the vehicle he had pulled up in.

~~DIPAOLA - DIRECT~~

1 Q. I'm going to show you again MAP-15.

2 Looking at MAP-15, can you describe, using the map in
3 front of you, what direction -- what happened when Foxtrot
4 arrived.

5 A. Yes, ma'am. So they're all back here (indicating) in the
6 yards going this direction (indicating). I'm not sure -- I
7 can't remember which house Eric Jordan was caught at, but
8 Mr. Banks came out to the street right here (indicating). And
9 that's where I confronted him and ordered him to the ground.

10 Q. Did he comply?

11 A. Yes, ma'am.

12 Q. And were both Mr. Jordan and Mr. Banks placed under
13 arrest?

14 A. Yes, ma'am.

15 Q. Did you search Mr. Jordan?

16 A. Yes, ma'am.

17 Q. And did you recover anything from Mr. Jordan?

18 A. Yes.

19 Q. What did you recover?

20 A. It was \$158, I believe, in U.S. currency.

21 Q. And can you describe how that currency was on Mr. Jordan's
22 person.

23 A. Yes, ma'am. It was kind of scattered. It wasn't
24 organized. It was just in different pockets. It was like
25 indicative of fast, hand-to-hand transactions, just taking the

~~DIPAOLA - DIRECT~~

1 money and putting it in his pocket.

2 Q. And after Mr. Banks was placed under arrest, did you
3 search him?

4 A. Yes, ma'am.

5 Q. Did you recover anything?

6 A. Yes; \$500 -- I think it was \$519 U.S. currency.

7 Q. And how was that U.S. currency on Mr. Banks' person?

8 A. It was the same, it was different bundles in different
9 pockets, unorganized.

10 Q. Now, Detective, you mentioned a few moments ago when you
11 were describing the operation that you believed that at the
12 back that that was where the sales were taking place. What did
13 you mean by "sales"?

14 A. The sales of the controlled, dangerous substances.

15 Q. Detective, did there come a time when you received any
16 additional evidence from another member of your team that was
17 relevant to this particular case?

18 A. Yes, ma'am.

19 Q. What did you receive?

20 A. The drugs that were taken off of the three buyers.

21 Q. I'm going to show you what I've marked as
22 Government's Exhibits D-17A, 17B, and 17C.

23 MS. PERRY: Permission to approach?

24 THE COURT: Yes.

25 BY MS. PERRY:

~~DIPAOLA - CROSS~~

1 Q. (Handing.)

2 Do you recognize these exhibits?

3 A. Yes, ma'am.

4 Q. What are they?

5 A. They are the small Ziplocs that contained the white rock
6 substance that was being sold from behind 5509 Gwynn Oak.

7 Q. And were Government's D-17A, 17B, and 17C ultimately
8 submitted to the Baltimore Police laboratory for testing?

9 A. Yes, ma'am.

10 MS. PERRY: Court's indulgence.

11 Nothing further. Thank you.

12 THE COURT: Okay. All right. Thank you.

13 Mr. Sardelli.

14 MS. PERRY: May I just approach and retrieve the
15 exhibits?

16 THE COURT: Oh, sure.

17 CROSS-EXAMINATION

18 BY MR. SARDELLI:

19 Q. Good morning, sir.

20 A. Good morning. How are you?

21 Q. Good. Thank you, sir.

22 So the 2012 incident you just testified about earlier,
23 Randy Banks was not arrested in that incident; correct?

24 A. No, sir.

25 Q. Now, going back to the call you talked about, Randy Banks

1 was not in that phone call; correct?

2 A. No.

3 Q. All right. Let's turn back to May of 2016. It was 21:00,
4 9:00 p.m.; am I correct?

5 A. Correct.

6 Q. It was dark out?

7 A. Yes.

8 Q. And I think you showed them a photo that you were
9 literally across the street, across a vacant lot in some bushes
10 looking at what you were seeing; correct?

11 A. Yes.

12 Q. At nighttime?

13 A. Yes.

14 Q. And there were more than just my client there. I think
15 you described numerous people. You mentioned a
16 Mr. Eric Jordan. I don't know if you mentioned this person,
17 but there was a Mr. Shelton --

18 A. Yes.

19 Q. -- Trayvon Jones, a Brian Kennedy, more than just my
20 client there?

21 A. Correct. And not all at the same time.

22 Q. But overall, there were multiple people coming and going;
23 correct?

24 A. Yes.

25 Q. Now, you said that the transactions that happened, they

1 were small amounts; correct? You said it was crack cocaine?

2 A. Yes.

3 Q. Okay. Suspected crack cocaine?

4 A. Yes.

5 Q. You didn't field-test it, though; right?

6 A. No. That's what our evidence control does after we submit
7 it.

8 Q. I'm asking what you did, though --

9 A. No.

10 Q. Did you --

11 A. No, I did not field -- I didn't field-test anything.

12 Q. Okay. And rocks of crack cocaine are small items; right?

13 A. Depending on what's -- what size and how much they
14 purchase; yes.

15 Q. Okay. But a \$10 rock, you're talking about small amounts;
16 right?

17 A. Correct.

18 Q. Especially when it's nighttime, you're across the street,
19 across a vacant alley or a vacant lot in some bushes; correct?

20 A. Correct.

21 Q. Now, I'm correct that you didn't actually talk to any of
22 the people that suspected or suspected of buying the drugs to
23 see what Randy Banks said to them; correct?

24 A. No, I did not.

25 Q. So you have no idea what Randy Banks said to them?

~~DIPAOLO~~ - CROSS

1 A. No.

2 Q. You're just saying that you saw him point; correct?

3 A. Correct.

4 Q. You weren't involved in taking any fingerprints or DNA.

5 As far as you know, there was no DNA or fingerprints; correct?

6 A. Correct.

7 Q. And you realize there's been another Banks discussed in
8 this case, a William Banks. You're not familiar with a
9 William Banks, are you?

10 A. No, sir.

11 Q. So in short, he had \$500, approximately, cash on him.
12 That's your testimony; correct?

13 A. Yes.

14 Q. And he pointed; right?

15 A. Correct.

16 Q. Okay. He didn't touch any drugs.

17 A. No.

18 Q. He didn't deal any drugs.

19 A. No.

20 Q. He didn't have drugs on him at the time of his arrest.

21 A. No.

22 Q. In fact, the case was dismissed against him; correct?

23 A. Correct. That was due to the --

24 Q. That's not what I'm asking. Was the case dismissed?

25 THE COURT: Well, then just strike that line of

1 questioning.

2 **MR. SARDELLI:** All right.

3 **BY MR. SARDELLI:**

4 **Q.** Did you take some photography -- or some photos in this
5 case?

6 **A.** Yes, sir.

7 **Q.** Okay. What happened to those photos?

8 **A.** The case was over three years old. It was dismissed due
9 to the -- the analysis wasn't back in time for
10 District Court --

11 **THE COURT:** All right. The case was dismissed. And?

12 **BY MR. SARDELLI:**

13 **Q.** Okay. What happened to the photos? Were they lost?

14 **A.** No. They -- I guess they were lost or deleted. It was
15 over three years ago before I found out I would need them
16 again.

17 **Q.** Okay. So they were lost or deleted?

18 **A.** Yes.

19 **Q.** And you took those photos; right?

20 **A.** Correct.

21 **Q.** And that was a muddy puddle?

22 **A.** Yes. It was the muddy area and the mud that was on
23 Mr. Jordan and Mr. Banks' clothes and feet.

24 **Q.** Okay. And a picture of my client as well; correct?

25 **A.** Correct.

~~DIPOLA~~ - CROSS

1 Q. And other pictures; correct?

2 A. No. I believe it was just the pictures of Mr. Banks and
3 Mr. Jordan with all the mud on them and then the mud in the
4 area that they were standing in.

5 Q. By "others," I mean more than just my client; correct?

6 A. No. I believe it was just those two.

7 Q. That's more than just my client; correct?

8 A. Yes.

9 MR. SARDELLI: No further questions, Your Honor.

10 THE COURT: All right. Thank you.

11 Mr. Enzinna.

12 MR. ENZINNA: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. ENZINNA:

15 Q. Good morning, Detective.

16 A. Good morning, sir. How are you?

17 Q. You testified about an incident that occurred in 2012 with
18 the silver Acura; correct?

19 A. Yes, sir.

20 Q. That was in 2012?

21 A. Yes.

22 Q. And I think you said you saw a disturbance in the parking
23 lot?

24 A. Yes.

25 Q. There were a number of people there?

1 **A.** Yes.

2 **Q.** And one of the people there was Mr. Bailey; correct?

3 **A.** Yes.

4 **Q.** And that was -- now, you also testified about a telephone
5 call, a jail call earlier; correct?

6 **A.** Yes.

7 **Q.** When did that jail call occur in relation to the incident
8 with the silver Acura in 2012?

9 **A.** I'm not a hundred percent sure. I don't remember off the
10 top of my head.

11 **Q.** Would it refresh your recollection if I showed you the
12 jail transcript --

13 **A.** Yes.

14 **Q.** -- jail call transcript?

15 **A.** Yes.

16 **MR. ENZINNA:** Your Honor, may I?

17 **THE COURT:** Yes.

18 **BY MR. ENZINNA:**

19 **Q.** (Handing.)

20 **A.** September of 2014.

21 **Q.** So does that refresh your recollection?

22 **A.** Yes.

23 **Q.** So that call was in 2014; correct?

24 **A.** Correct.

25 **Q.** Two years later?

1 **A.** Yes.

2 **Q.** Now, you -- on the night of November 4th, I believe it
3 was, 2012 --

4 **A.** Yes.

5 **Q.** -- the incident with the silver Acura, did you arrest
6 Mr. Dent?

7 **A.** Yes.

8 **Q.** Did you arrest Mr. McCorkle?

9 **A.** Yes.

10 **Q.** You did not arrest Mr. Bailey, did you?

11 **A.** No, sir.

12 **Q.** There was no probable cause to arrest him, was there?

13 **A.** No. He just approached the vehicle, and I asked him to
14 leave while we were conducting our investigation.

15 **Q.** Okay. Now, you said that you found gang paperwork.

16 **A.** Yes, sir.

17 **Q.** Who told you it was gang paperwork?

18 **A.** Through my knowledge of gangs when I went through the
19 academy. I also did four years in corrections at
20 Anne Arundel County corrections, so I had a little bit more of
21 a gang background than most.

22 **Q.** But you read it and you made the judgment that it was gang
23 paperwork?

24 **A.** Yes, sir.

25 **Q.** When you checked it into evidence, did you describe it as

~~DIPAOLO~~ - CROSS

gang paperwork?

A. I don't recall what I labeled it as.

Q. You read some of that.

Well, first of all, let me ask you this: Those papers, are they true?

MS. PERRY: Objection.

THE COURT: Sustained.

BY MR. ENZINNA:

Q. Well, let me -- I believe this is GP-2-A, and I'd like to show you the first page of that.

Do you see that, Detective?

A. Yes.

Q. Now, you read portions of this earlier; correct?

A. Correct.

Q. I think you read the first couple of entries there on that page?

A. Yes.

Q. You skipped the third entry; correct?

A. Okay.

Q. What is LaEMM's purpose?

A. Okay.

Q. Could you read that, please.

A. Can you zoom in a little bit for me? Or can I have the paper back to make it a little easier to read.

MS. PERRY: (Handing.)

~~DIPAOLA - CROSS~~

1 **MR. ENZINNA:** May I, Your Honor?

2 **THE COURT:** Sure.

3 **BY MR. ENZINNA:**

4 **Q.** (Hanging.)

5 **A.** [Reading]:

6 What is LaEMM's purpose?

7 To instill morals and principles back into the mindsets of
8 the adults and children, giving us back the proper discipline
9 needed to become a successful family-oriented network; to build
10 a resource center within our environment that keeps our
11 bloodline strong, enabling our children -- our kids to benefit
12 and achieve greater heights than what we did.

13 **Q.** Now, that paragraph is not highlighted on your copy, is
14 it?

15 **A.** No.

16 **Q.** Who did that highlighting? Who put the highlighting on
17 there?

18 **A.** The State -- the State's Attorneys (indicating).

19 **Q.** All right. Turn, if you would -- and I'm sorry. I don't
20 have page numbers here. But the page, it's about seven or
21 eight pages farther into the document, page entitled "The Seven
22 Mob Mandates."

23 **A.** Do you have a page number?

24 **Q.** I don't have a page number. This doesn't appear to have
25 pages on it. I can find it for you.

~~DIPAOLO~~ - CROSS

1 **MR. ENZINNA:** Your Honor, may I?

2 **THE COURT:** Sure.

3 **THE WITNESS:** Okay (handing).

4 **BY MR. ENZINNA:**

5 **Q.** (Indicating.)

6 Earlier you read the first three entries on that page;
7 correct?

8 **A.** Yes.

9 **Q.** And those were highlighted?

10 **A.** Yes.

11 **Q.** You didn't read the last four, did you?

12 **A.** No.

13 **Q.** Can you just read number 6 and number 7.

14 **A.** [Reading]: Number 6: Always give back to the people in
15 some form.

16 And [Reading]: Number 7, find God. Pray for your family.

17 **Q.** Turn, if you would, to the next page that's entitled "The
18 Mafioso Way" -- oh, I'm sorry. That was the page we just did.
19 I apologize.

20 **A.** That's all right.

21 **Q.** Turn three pages farther on. There is a page that begins
22 with the paragraph "The female is known as the queen of
23 diamonds."

24 **A.** Okay.

25 **Q.** Look, if you would, at the last paragraph on that page.

~~DIPAOLA~~ - CROSS

1 "After the 26-day investigation," do you see that?

2 **A.** After the 26 -- yes.

3 **Q.** And you see the second sentence there that is highlighted
4 on the screen, it says -- this talks about a 26-day
5 investigation of a prospect; correct?

6 **A.** Correct.

7 **Q.** And it says [reading]: If they are not worthy, two things
8 are optional.

9 **A.** Yes.

10 **Q.** And it says [reading]: The first, death at all cost
11 because info was received that could be of great detriment to
12 the family.

13 **A.** Correct.

14 **Q.** Do you know if that ever happened?

15 **MS. PERRY:** Objection.

16 **THE COURT:** Sustained unless you want to come up to
17 the bench about that.

18 **MR. ENZINNA:** No. I'll withdraw the question.

19 **BY MR. ENZINNA:**

20 **Q.** Now, if you would, turn to -- again, I apologize. I don't
21 have page numbers. But it's one, two, three pages further,
22 page that begins with the line "The right-hand underbosses."

23 Do you have that page?

24 **A.** Yes.

25 **Q.** Can you look at the last paragraph there.

~~DIPAOLA - CROSS~~

1 A. Yes.

2 Q. And can you just read the first sentence of that
3 paragraph.

4 A. [Reading]: The next house under the Wolf pack legacy is
5 our educational system, which is called the school of thought.

6 Q. That wasn't highlighted on your version, was it?

7 A. No.

8 Q. Now, if you would, turn to the last two pages of that
9 document, the handwritten portions.

10 Is that page highlighted as well?

11 A. Yes.

12 Q. Again, the prosecutors highlighted that?

13 A. Yes.

14 Q. Look at the second paragraph. And this is -- this is a
15 letter that was written to Mr. Bailey; correct?

16 MS. PERRY: Objection.

17 BY MR. ENZINNA:

18 Q. Well, let me rephrase that.

19 This is addressed to Guttaman; correct?

20 A. Correct.

21 Q. Now, if you look in the second paragraph, it begins with
22 the word "aye," A-Y-E?

23 A. In the second paragraph?

24 Q. I'm sorry. The second paragraph, yes.

25 A. I'm not -- where are you looking at? I'm sorry.

~~DIPAOLA~~ - CROSS

1 **MR. ENZINNA:** Your Honor, may I?

2 **THE COURT:** Yes.

3 **BY MR. ENZINNA:**

4 **Q.** (Indicating.)

5 **A.** Oh, I'm sorry. Yes.

6 **Q.** And if you would read the second sentence -- second and
7 third sentences of that paragraph.

8 **A.** [Reading]: In two weeks, maybe three, the streets will be
9 blessed with my literally [sic] presence once again. I have a
10 few moves that I want to do as far as presented both books to
11 some out-of-state stores.

12 **Q.** What did you understand that to mean?

13 **MS. PERRY:** Objection.

14 **THE COURT:** Do you want to come up to the bench?

15 (Bench conference on the record:

16 **THE COURT:** I think that all this witness has been
17 doing is reading parts of the documents which sort of speak for
18 themselves. What would you be expecting him to say in response
19 to this?

20 **MR. ENZINNA:** Well, Your Honor, he says that he sees
21 the document; he read it and determined it was gang paperwork.
22 And what I want to ask him is what is his understanding of
23 those pages, of those particular portions of them.

24 **THE COURT:** But he has not been the -- he has not been
25 asked to interpret what any of these things mean.

1 **MR. ENZINNA:** Well, he's interpreted the entire thing
2 by saying it's gang paperwork.

3 **THE COURT:** Yes, although not this letter. I mean,
4 he's interpreted the other documents. This has just been
5 interpreted as a letter to Mr. Bailey.

6 **MR. ENZINNA:** No. I think this was -- this was part
7 of the exhibit, part of the single exhibit that's been marked
8 as gang paperwork, that he characterized as gang paperwork.

9 **THE COURT:** They were separated. I mean, they're
10 clearly different -- they may have been together, but they're
11 clearly different documents.

12 And you just brought out in your questioning that this
13 is a letter. And it was, I believe when it was in direct, it
14 was identified as a letter from jail. And it was questioned
15 about after the -- all the stuff about the -- allegedly about
16 the gang.

17 **MR. ENZINNA:** Well, then, can I ask him if this is, in
18 fact, part of the gang paperwork? Or should it be not marked
19 as a separate exhibit?

20 **THE COURT:** I don't understand.

21 **MR. ENZINNA:** Well --

22 **THE COURT:** If you simply want to ask him whether he
23 considered that part of the gang paperwork, you can ask him
24 that. But I am sustaining an objection to asking him to
25 interpret any of this.

1 **MR. ENZINNA:** Well, if he says that he did interpret
2 this as part of the gang paperwork --

3 **THE COURT:** I'm sorry?

4 **MR. ENZINNA:** If he says that he did interpret this as
5 part of the gang paperwork, can I ask him what he based that
6 interpretation on?

7 **THE COURT:** That gets into a lot more than what the
8 particular sentence is that you've highlighted, and I don't
9 know what he would say in response to that.

10 **MR. ENZINNA:** Nor do I.

11 **THE COURT:** So sustained. That's not a good idea.

12 **MR. ENZINNA:** Okay.

13 **THE COURT:** Okay.

14 **MR. ENZINNA:** Thank you, Your Honor.)

15 (Bench conference concluded.)

16 **BY MR. ENZINNA:**

17 **Q.** All right. Detective, turn, if you would, to the very
18 last page of that exhibit and the first full paragraph on that
19 page that begins with the word "so what's."

20 **A.** Yes. [Reading]: So what's up with your book? Stop
21 bullshittin' and get that thing out.

22 **Q.** Okay. And can you just read the very last sentence there
23 too, in the exhibit.

24 **A.** Yes.

25 [Reading]: And put some music out, nigga.

~~DIPAOLA - REDIRECT~~

1 **MR. ENZINNA:** Nothing further, Your Honor. Thank you.
2 Thank you, Detective.

3 **THE COURT:** Thank you.

4 Let's see. Mr. Trainor.

5 **MR. TRAINOR:** Mr. Lockley has no questions.

6 **THE COURT:** All right.

7 **MS. AMATO:** No questions, Your Honor.

8 **THE COURT:** Okay.

9 **MR. HAZLEHURST:** Nothing on behalf of Mr. Davis,
10 Your Honor.

11 **THE COURT:** All right.

12 **MR. DAVIS:** And same for Mr. Frazier.

13 **THE COURT:** Okay. Any redirect?

14 **MS. PERRY:** Just very briefly, Your Honor.

15 REDIRECT EXAMINATION

16 **BY MS. PERRY:**

17 **Q.** Detective, when you were -- when we listened to the
18 jail call, did you hear the portion of the call where it
19 described a quantity of drugs?

20 **A.** Yes, ma'am.

21 **Q.** And was that consistent with the quantity that you
22 recovered on -- in November of 2012?

23 **A.** Yes, ma'am.

24 **Q.** And were the individuals described consistent with what
25 your memory of the incident in 2012 were?

~~DIPAOLA - REDIRECT~~

1 **A.** Yes, ma'am.

2 **Q.** I just have one more question for you about the incident
3 in May of 2016.

4 I believe you testified on direct examination that you
5 were observing the location from a covert area. How were you
6 able to see 5509?

7 **A.** Yes, ma'am. So the -- there's streetlights on Gwynn Oak
8 itself, and then the front of the actual yard was lit up with
9 the light. So it would cast the darker shade back behind the
10 corner of the house where they all would go walk back to.

11 **Q.** But from where you were able to observe, what portion of
12 the house could you see?

13 **A.** I could see the front that was lit up.

14 **MS. PERRY:** Thank you. Nothing further.

15 **THE COURT:** Okay. Thank you, sir.

16 **THE WITNESS:** Thank you.

17 **THE COURT:** You are excused.

18 (Witness excused.)

19 **THE COURT:** Can I see counsel just on the schedule for
20 a minute.

21 (Bench conference on the record:

22 **THE COURT:** I'm just wondering who is the next witness
23 and how long.

24 **MS. PERRY:** The next witness will be Jerry Dixon.
25 He's a civilian. And I expect his direct will probably last 20

1 to 30 minutes.

2 **THE COURT:** 20 to 30 minutes. All right. Then I
3 suppose this is as good a time as any for our mid-morning
4 recess.

5 **MS. HOFFMAN:** Thank you.)

6 (Bench conference concluded.)

7 **THE COURT:** All right, ladies and gentlemen, we're
8 going to take the mid-morning recess, and then we'll have
9 another witness.

10 Ladies and gentlemen of the jury, if you would be
11 excused for the break.

12 (Jury left the courtroom at 11:17 a.m.)

13 **THE COURT:** All right. And now we'll excuse the
14 gallery.

15 (Pause.)

16 **THE COURT:** All right. We'll take our recess.

17 (Recess taken.)

18 **THE COURT:** I guess I should ask, after this next
19 witness, is there anyone for whom we anticipate a particular
20 issue, either a 9-1-1 call or the other matter, the jail call?

21 **MS. HOFFMAN:** No. We expect the third witness will be
22 Frank Friend, and there won't be any 9-1-1 calls or the
23 jail call played through him.

24 I did want to flag for Your Honor, though, with
25 respect to the August 23rd, 2015 jail call, we will be playing

~~DIXON - DIRECT~~

1 a wire call through Sergeant Friend that we believe is actually
2 the same female speaker as in the August 23rd, 2015 jail call.
3 So I did want to flag that for Your Honor before we play it,
4 because I think that call also supports our position that she
5 is a co-conspirator.

6 **THE COURT:** Okay. All right. We'll get the jury.

7 (Jury entered the courtroom at 11:39 a.m.)

8 **THE COURT:** Is the Government calling another witness?

9 **MS. PERRY:** Yes, Your Honor. The Government calls
10 Jarrud Dixon.

11 **THE CLERK:** Please raise your right hand.

12 JARRUD DIXON, GOVERNMENT'S WITNESS, SWORN.

13 **THE CLERK:** Please be seated.

14 Please speak directly into the microphone. State and
15 spell your full name for the record, please.

16 **THE WITNESS:** I am Jarrud Michael Dixon, J-A-R-R-U-D,
17 D-I-X-O-N.

18 **THE CLERK:** Thank you.

19 DIRECT EXAMINATION

20 **BY MS. PERRY:**

21 **Q.** Mr. Dixon, how old are you?

22 **A.** 29 years old.

23 **Q.** If you want to get some water, go right ahead.

24 Mr. Dixon, are you currently under the supervision of the
25 U.S. Department of Probation?

~~DIXON - DIRECT~~

1 A. Yes.

2 Q. Is that because you were convicted of a crime?

3 A. Yes.

4 Q. What crime were you convicted of?

5 A. Fraud, defrauding on some ATF form.

6 Q. Was it making a false statement in a firearms dealer
7 record?

8 A. Yes. Yes.

9 Q. And did you plead guilty to that charge?

10 A. Yes, I did.

11 Q. As part of that guilty plea, did you agree to cooperate
12 with the Government?

13 A. Yes.

14 Q. What is your understanding of the cooperation agreement?

15 A. I give my testimony, and then nothing was promised. So
16 I'm just waitin' to see the outcome.

17 Q. And under the agreement, are you required to testify?

18 A. Yes.

19 Q. And are you required to testify truthfully?

20 A. Yes.

21 Q. Have you been sentenced yet?

22 A. No.

23 Q. Have you made -- been made any promises as to what your
24 sentence will be?

25 A. No.

~~DIXON - DIRECT~~

1 Q. Do you expect to receive a benefit as part of your
2 cooperation?

3 A. No. It would be nice, but no.

4 Q. So are you expecting that or hoping that you will receive
5 leniency as part of your cooperation agreement?

6 A. It's a possibility.

7 Q. Mr. Dixon, do you know what happens to your cooperation
8 agreement if you lie?

9 A. Yes. It gets taken away, and I also get charges on top of
10 that.

11 Q. Mr. Dixon, in addition to your criminal conviction in this
12 case, do you have any others?

13 A. Yes.

14 Q. Can you summarize them briefly for us.

15 A. Two convictions of handgun in vehicle, one theft between
16 one and ten thousand dollars. I can't remember anything else
17 at the moment.

18 Q. And have you been arrested again since you pled guilty in
19 this case?

20 A. No.

21 Q. Mr. Dixon, are you currently living in Western Maryland?

22 A. Yes.

23 Q. And did there come a time in your life when you began
24 using drugs?

25 A. Yes.

~~DIXON - DIRECT~~

1 Q. Can you tell us approximately when that was.

2 A. I started by smoking marijuana at age 18. Alcohol came in
3 as well. One thing led to another. I ended up trying cocaine;
4 ended up being on heroin at the very end, which is when it got
5 really bad, and on Xanax as well.

6 Q. Did there come a time when you stopped using drugs?

7 A. There were sporadic times when I would quit, but I would
8 always go back.

9 Q. Did there come a time when you stopped using completely?

10 A. Yes; August 3rd, 2014, the last time I got arrested.

11 Q. Have you attended any treatment since you were arrested?

12 A. Yes. I've been continuously in programs. I think I'm on
13 my fourth right now.

14 Q. And how long have you been clean?

15 A. Since August 3rd, 2014, going on five years.

16 Q. So I want to direct your attention back to late 2013 and
17 2014. Were you still using back then?

18 A. Yes.

19 Q. Which drugs were you using in about that time frame?

20 A. Smoking marijuana, using Xanax, heroin, alcohol.

21 Q. Can you describe how much heroin and other drugs you were
22 using around that time.

23 A. I was using about 6 to 7 grams of heroin a day, eating up
24 to 12 bars of Xanax, drinking a fifth on top of it, and smoking
25 the occasional joint here and there.

~~DIXON - DIRECT~~

1 Q. Now, I want to direct your attention to an even earlier
2 date, to around 2009, and circle back to the crime that you
3 pled guilty to.

4 Back in 2009, were you working?

5 A. Yes.

6 Q. Where were you working?

7 A. I was working at Crazy Ray's Junkyard.

8 Q. And is that in Western Maryland?

9 A. Yes.

10 Q. And did there come a time when you met someone who played
11 a role in your crime?

12 A. Yes, I did.

13 Q. Who was that?

14 A. Mr. Charles Alexander.

15 Q. And what happened?

16 A. We got on the subject -- he was workin' as a security
17 guard at the junkyard, and we got on the discussion of
18 firearms. And one thing led to another, and I bought my first
19 one from him, a rifle.

20 And then we got on a discussion -- I had a girlfriend who
21 had a West Virginia driver's license, and started buying
22 firearms through him with her driver's license.

23 Q. Why did you start buying firearms?

24 A. It's a hobby -- was a hobby.

25 Q. And how were you able to purchase them? Can you explain

~~DIXON - DIRECT~~

1 that.

2 **A.** We had a scheme going on at the junkyard where we were
3 basically stealing money.

4 **Q.** And were you using that money to purchase firearms?

5 **A.** Yes.

6 **Q.** And specifically how were you able to use your
7 girlfriend's identity to purchase firearms?

8 **A.** He would bring the form in. I would sign it. And while I
9 was signing it, he'd go smoke a cigarette so he didn't
10 physically watch it being signed so he could, you know --
11 liability.

12 **Q.** And so were you purchasing the firearms in someone else's
13 name?

14 **A.** Yes.

15 **Q.** And why did you need to use a West Virginia license to do
16 it?

17 **A.** Maryland has much stricter gun laws. It was a lot easier
18 with West Virginia.

19 **Q.** Approximately how many firearms did you buy using this
20 scheme?

21 **A.** About 40.

22 **Q.** Did you know it was illegal to do it the way you were
23 doing it?

24 **A.** Yes.

25 **Q.** And did there come a time when you were approached by

~~DIXON - DIRECT~~

1 law enforcement about this particular scheme?

2 **A.** It wasn't until I'd been arrested on another charge that
3 law enforcement finally became aware of the crimes I'd
4 committed.

5 **Q.** And when you were first approached by law enforcement
6 about this purchasing of firearms using someone else's
7 identification, did you originally tell them what had really
8 happened?

9 **A.** No.

10 **Q.** Why not?

11 **A.** I was locked up at the time, so I saw no -- no real reason
12 to discuss it, truthfully.

13 **Q.** What changed?

14 **A.** They came back and they knew everything, ins and out.
15 They knew how much I, you know, spent on food, everything.

16 **Q.** Now, Mr. Dixon, you told us that you started buying the
17 guns, I believe you said, as a hobby.

18 **A.** Yes.

19 **Q.** Did you keep every gun that you obtained during this time
20 frame?

21 **A.** No.

22 **Q.** What did you -- what were you doing with the guns?

23 **A.** I was target shootin' with 'em on, you know, days I had
24 extra time and just stockpiling 'em until the point in my
25 addiction where, you know, I got bad. So I sold everything.

~~DIXON - DIRECT~~

1 **THE COURT:** I'm having a little trouble hearing.

2 Could you just speak into the microphone.

3 **BY MS. PERRY:**

4 **Q.** If you could just slide forward and keep your voice up, if
5 you would.

6 **A.** All right. I kept 'em up until my drug addiction got bad,
7 and then I started selling everything. Anything that wasn't
8 bolted down to the ground, I sold.

9 **Q.** And did this include some of the firearms you were
10 purchasing?

11 **A.** Yes.

12 **Q.** Why were you selling them?

13 **A.** To get drugs.

14 **Q.** Now, I want to jump forward in time to about 2014. I
15 believe you've already described how -- the height of your
16 addiction, but what was your addiction like in 2014?

17 **A.** If I wasn't using drugs, I was sick. And it was a very
18 scary, low place to be. Nothing -- drugs quit working. I
19 basically burned every bridge that I ever had. And it was just
20 a sad existence. Lost my job. Lost everything.

21 **Q.** And how much were you using on a daily basis around then?

22 **A.** 6 to 7 grams of heroin a day.

23 **Q.** How did the heroin affect you physically?

24 **A.** At first, it was inebriating. After about four months in,
25 it just kept me well, didn't impact anything. Just went about

~~DIXON - DIRECT~~

1 a normal day like I was clear-minded.

2 Q. Did it affect your ability to remember?

3 A. No.

4 Q. Mr. Dixon, where were you getting the heroin you were
5 using?

6 A. Getting it on Forest Park in Baltimore.

7 Q. Why were you coming to Baltimore to get heroin?

8 A. A lot more potent out here. A lot cheaper. And there's a
9 lot more of it at different times of the day as well. So it
10 was just an availability thing. I'm -- I was only 40 or
11 50 miles away, so it was just a lot easier.

12 Q. How often would you come to Baltimore during this time
13 period in 2014 to get heroin?

14 A. Once a day.

15 Q. And I believe you told us you would go to a specific area.
16 Where was that?

17 A. Forest Park.

18 Q. I'm going to show you what's already in evidence as
19 MAP-34.

20 Do you recognize what's on the screen here?

21 A. Yes. It's Forest Park Avenue.

22 Q. And can you describe, using the exhibit on the screen,
23 where you would go to purchase heroin in 2014.

24 A. (Indicating.)

25 Q. And you circled the -- sorry. Go ahead.

~~DIXON - DIRECT~~

1 **A.** (Indicating.)

2 **Q.** So you circled the area down here near Clifton Avenue, an
3 area just north of Windsor Mill on Forest Park Avenue; and the
4 area over to the right of the screen, that's labeled
5 "Tucker Lane." Are those the areas that you would go to?

6 **A.** Yes.

7 **Q.** How many times would you say that you came to this
8 particular area to purchase drugs?

9 **A.** The Clifton Avenue portion, hundreds of times. The Tucker
10 and other place, a dozen times each.

11 **Q.** Can you describe what this area was like, this north --
12 the Forest Park area.

13 **A.** It was a bunch of row houses. And you'd just make a phone
14 call, and somebody would be out there to meet you. And you'd
15 buy the drugs and then drive off.

16 **Q.** What did the area look like when you would drive in on any
17 given day?

18 **A.** There would be people outside and just people hangin' out
19 generally.

20 **Q.** Were there often other cars in the area?

21 **A.** Yes.

22 **Q.** Now, I believe you just mentioned that you would call
23 someone when you were coming to the area.

24 Did you have a specific contact?

25 **A.** Yes; a gentleman named AJ.

~~DIXON - DIRECT~~

1 Q. How did you contact AJ?

2 A. I had his phone number memorized at the time.

3 Q. I'm going to show you Government's Exhibit IND-81.

4 Do you recognize this person?

5 A. Yes. That's AJ.

6 Q. And I believe you said that you had a phone number for
7 him. Do you recall that number as you sit here today?

8 A. No.

9 Q. But did you provide that number to law enforcement on a
10 prior occasion?

11 A. Yes.

12 Q. Now, when you would come -- when you would call AJ, can
13 you just describe generally what would happen.

14 A. You would say how far out you are, and then he'd tell you
15 where to go, which location. And that'd be it. You'd meet him
16 there, get the drugs, and then leave.

17 Q. And would you normally tell AJ how much you were looking
18 to purchase?

19 A. Yes.

20 Q. Approximately how many times did you buy heroin from AJ?

21 A. Five or six hundred times.

22 Q. And how much did you usually purchase? And I don't
23 believe I actually asked you this: What would you purchase
24 from AJ?

25 A. I would buy heroin.

~~DIXON - DIRECT~~

1 Q. Was it always heroin?

2 A. I believed it to be.

3 Q. How much would you usually purchase from AJ when you would
4 come to the Forest Park area?

5 A. At first, it'd be, you know, in the half grams. I had a
6 half gram here, and then it ended up going up and just keep
7 going up. So I'd buy by the gram at the very end.

8 Q. What did the heroin you bought from AJ look like?

9 A. It came in many different colors. It just depended on the
10 week. You'd have real white, brown, a little bit tarry. Just
11 depended.

12 Q. How much did you pay for the heroin you got from AJ?

13 A. \$120 a gram.

14 Q. Did you always pay in cash?

15 A. No.

16 Q. How else would you pay?

17 A. Towards the very end, I used guns to pay for the drugs.

18 Q. How many times did you provide a gun in exchange for drugs
19 with AJ?

20 A. About a dozen times.

21 Q. Do you recall which guns you provided him?

22 A. Walther PPK, SIG SAUER 320, Bersa Thunder. Those are the
23 ones I can remember off the top of my head.

24 Q. Were they always handguns?

25 A. Yes.

~~DIXON - DIRECT~~

1 Q. How much heroin would you get per firearm?

2 A. It depended on which gun. A Ruger LCP would be like a
3 gram or two or up to a nice SIG SAUER P227 would bring like 7
4 or 8 grams.

5 Q. Now, I believe that you testified that when you would call
6 AJ, he would give you a location.

7 A. Yes.

8 Q. What locations did you purchase heroin from when you would
9 call AJ?

10 A. Mainly the parking lots off of Carmine.

11 Q. Let me pull back up MAP-34.

12 If you could use MAP-34 and tell us what locations you
13 would purchase drugs from AJ from.

14 A. Generally, that location (indicating).

15 Q. Indicating the area down near Clifton Avenue and
16 Carmine Avenue?

17 A. Yes.

18 Q. Now, Mr. Dixon, when you called, did you always call AJ?

19 A. For the most part. And if he wasn't available, he'd have
20 somebody else call me.

21 Q. And was it always AJ that brought you the drugs?

22 A. No. Occasionally there'd be runners.

23 Q. Can you describe how that would work. What do you mean by
24 a runner?

25 A. He'd tell me the location, and somebody else would show

~~DIXON - DIRECT~~

1 up. It wouldn't exactly always be him; but for the most part,
2 it was.

3 Q. Do you remember any of the other names of the people that
4 brought you drugs when you would call AJ, or did you ever learn
5 any other names?

6 A. There was quite a few that came, but the only ones that I
7 remember was a gentleman named PJ.

8 Q. I'm going to show you IND-43.

9 Do you recognize this person?

10 A. Yes.

11 Q. Who is this?

12 A. That is PJ.

13 Q. And approximately how many times did you purchase heroin
14 from PJ?

15 A. About a dozen.

16 Q. And when you purchased from PJ, did you always contact AJ
17 first?

18 A. Yes.

19 Q. Now, I want to show you one other photograph. This is
20 IND-60.

21 Do you recognize this person?

22 A. Yes.

23 Q. Who is this?

24 A. T-Roy.

25 Q. Now, did you ever purchase drugs from T-Roy?

~~DIXON - DIRECT~~

1 **A.** No.

2 **Q.** Did you ever see T-Roy in the area that you described at
3 Forest Park?

4 **A.** Yes. I believed him to be a watcher, an overseer.

5 **Q.** And why did you believe that?

6 **A.** He was always generally in the same location, never said
7 anything. I never actually physically dealt with him. But
8 just gave me that appearance/belief.

9 **Q.** Now, in addition to the runners that you've just
10 described, did AJ ever introduce you to anyone other than the
11 runners?

12 **A.** Yes.

13 **Q.** Who did he introduce you to?

14 **A.** I don't know his name, but referred to him as Big Mo.

15 **Q.** And do you remember when he introduced you to Big Mo?

16 **A.** It was in 2014.

17 **Q.** And how did he introduce Big Mo?

18 **A.** As his brother, and I don't know if he was talking
19 biologically or a gang member.

20 **Q.** What did Big Mo look like?

21 **A.** He is a bigger, stocky guy, I guess about 6'2" or so.
22 Pretty stocky.

23 **Q.** And if you saw him again, would you recognize him?

24 **A.** Yes.

25 **Q.** I'm going to show you IND-3.

~~DIXON - DIRECT~~

1 Do you recognize the person on the screen?

2 A. Yes.

3 Q. Who is that?

4 A. Big Mo.

5 Q. When AJ introduced you to Big Mo, did you have any contact
6 with Big Mo beyond that first introduction?

7 A. Yes. I got drugs from him a couple times.

8 Q. What would you purchase from Big Mo?

9 A. Just heroin.

10 Q. And how did you get in touch with Big Mo?

11 A. The last couple of times, I physically had a phone number
12 for him.

13 Q. How much would you pay for heroin from Big Mo?

14 A. Same price.

15 Q. And what did the heroin that you got from Big Mo look
16 like?

17 A. It was brown. It was kind of sandy.

18 Q. Did you always pay Big Mo in cash?

19 A. No.

20 Q. How else would you pay Big Mo?

21 A. With guns.

22 Q. Can you recall how many times you paid Big Mo for drugs
23 with firearms?

24 A. I believe it was four times.

25 Q. And how much heroin would you receive per firearm when you

~~DIXON - DIRECT~~

1 exchanged them with Big Mo?

2 **A.** It just depended on the gun. The nicer the gun, the more
3 I'd get.

4 **Q.** Do you remember any of the firearms that you gave Big Mo?

5 **A.** Yes. There was a SIG SAUER P220 that I exchanged for
6 drugs. It was an olive color with green handles.

7 **Q.** Do you remember any of the other firearms?

8 **A.** Yes. Ruger LCP and Ruger KSR.

9 **Q.** Did you ever have any conversations with Big Mo about
10 firearms?

11 **A.** Yes. At one point he asked me if I could get firearms by
12 the truckloads, and it wasn't exclusive to firearms,
13 anything -- any destructive devices, basically.

14 **Q.** What specifically was he asking for?

15 **A.** AKs, ARs, rocket launchers, if I could get 'em.

16 **Q.** Did you ever provide any of those firearms or any other
17 devices to Big Mo?

18 **A.** No.

19 **Q.** Why not?

20 **A.** Having more than two firearms in a car when it's illegal
21 is major liability, so I never carried more than one that I was
22 taking and one that I had.

23 **Q.** Was there anything specific about Big Mo's appearance that
24 stood out to you?

25 **A.** The tattoos on the face.

~~DIXON - CROSS~~

1 Q. Now, Mr. Dixon, did the individuals who sold or who you
2 saw out in the area of Forest Park in and around the gas
3 station and the other areas you described, did they appear to
4 you to be working together or separately?

5 A. They appeared to be working together.

6 Q. And why do you believe that?

7 A. Body language whenever I'd roll up, and it would appear
8 that they would be talking to each other and be looking out for
9 each other. In case there were any police presence, they could
10 forewarn each other.

11 MS. PERRY: Court's indulgence.

12 (Counsel conferred.)

13 MS. PERRY: Nothing further. Thank you.

14 THE COURT: All right. Mr. Enzinna.

15 MR. ENZINNA: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ENZINNA:

18 Q. Good afternoon, Mr. Dixon.

19 You said that you were arrested in August of 2014?

20 A. Yes.

21 Q. What were you arrested for?

22 A. I was arrested for a violation of probation.

23 Q. What were you on probation for?

24 A. Handgun and vehicle charge.

25 Q. And you said that it was after you were arrested that

~~DIXON - CROSS~~

1 law enforcement agents came to you to talk to you about the
2 matters you've testified to today; correct?

3 A. Yes.

4 Q. About the gun sales?

5 A. Yes.

6 Q. And you initially lied to them about it.

7 A. Yes.

8 Q. You told them you weren't involved in it?

9 A. Yes.

10 Q. And it was only when they came back and proposed a
11 cooperation deal that you told them what you've told us today?

12 A. No. They laid out exactly what had happened, so to lie
13 about it was -- there is no reason to.

14 Q. Okay. And you said you signed these forms to get these
15 guns from Mr. Alexander. You signed your girlfriend's name;
16 correct?

17 A. Yes.

18 Q. Okay. Now, you testified also that your -- I believe you
19 said your heroin use got very bad in 2014; correct?

20 A. Yes.

21 Q. And you said you were using several grams of heroin every
22 day?

23 A. Yes.

24 Q. And Xanax?

25 A. Yes.

~~DIXON - CROSS~~

1 Q. And alcohol?

2 A. Yes.

3 Q. And marijuana?

4 A. Yes.

5 Q. And that was during all of 2014?

6 A. Not all of 2014. The heroin, yes, it was all of 2014.

7 Q. Okay.

8 A. They came in spurts.

9 Q. And what's the distinction you're drawing in terms of
10 time?

11 A. Can you repeat that.

12 Q. Well, you said that you used heroin all through 2014 --

13 A. Yes.

14 Q. -- correct?

15 Did you use Xanax all through 2014?

16 A. Not all of it.

17 Q. When in 2014 did you use Xanax?

18 A. It was the very beginning of the year and towards the end.

19 Q. Okay. And what about alcohol?

20 A. That was daily.

21 Q. Pardon me?

22 A. Daily.

23 Q. Daily.

24 And what about marijuana?

25 A. It was an occasional use here and there. It just depended

~~DIXON - CROSS~~

on who had it.

Q. And you said you went to Baltimore every day --

A. Yes.

Q. -- to get drugs.

And you said you bought drugs from Mr. -- from AJ --

A. Yes.

Q. -- five or six hundred times; correct?

And that was once per day?

A. Approximately.

Q. So would that be five or six hundred days?

A. (No response.)

Q. Did you buy drugs from Mr. -- from AJ on five or six hundred days?

A. I wouldn't say that was -- being a whole chunk, it would be spread out over the two years or so that I used.

Q. Right. But there were five or six hundred different days. You didn't buy drugs from him twice on a day, did you?

A. No.

Q. Okay. All right. And you said that you traded guns with this gentleman Big Mo on four occasions; correct?

A. Yes.

Q. But you only listed three guns; right?

A. Yes.

Q. The SIG SAUER P220 and two Rugers?

A. Yes.

~~DIXON - CROSS~~

1 Q. Do you just not recall the fourth one?

2 A. I don't recall the fourth one.

3 Q. Now, the Rugers, you said that was a relatively
4 inexpensive gun; correct?

5 A. Yes.

6 Q. And you would only get one or two grams for one of those?

7 A. Yes.

8 Q. And you also -- and when exactly were these four
9 occasions? Were they in 2014?

10 A. I believe them to be.

11 Q. Could they have been in 2013?

12 A. They possibly could have.

13 Q. Okay. And you also testified -- you also testified before
14 the grand jury, didn't you, that this gentleman, Big Mo, drove
15 a -- an Audi A8?

16 A. Yes. I saw him driving one, so I believed he drove one.

17 MR. ENZINNA: Nothing further, Your Honor.

18 Thank you.

19 MR. SARDELLI: No questions for Mr. Banks.

20 THE COURT: All right.

21 CROSS-EXAMINATION

22 BY MR. TRAINOR:

23 Q. Good afternoon, Mr. Dixon. My name is Harry Trainor.

24 We haven't talked before, have we?

25 A. Not that I believe.

~~DIXON - CROSS~~

1 Q. Thank you.

2 But you've met with the prosecutors in this case? You've
3 met with Ms. Hoffman (indicating)?

4 A. Yes.

5 Q. And you've met with Agent Brad Hood?

6 A. Yes.

7 Q. And one of those meetings was on April 14th, 2016, in
8 which you were shown a -- the same photograph of the person you
9 identified as T-Roy.

10 MS. PERRY: Objection.

11 THE COURT: Is it something you need to consult with
12 counsel about? Is this a correction? Or do you want to
13 approach the bench?

14 MS. PERRY: May we approach, Your Honor?

15 (Bench conference on the record:

16 MS. PERRY: Your Honor, I believe it's just a
17 correction, but I didn't know that I could make it at the
18 table.

19 Mr. Dixon was not shown the same photograph on a prior
20 occasion. It was a different photograph that was shown to him.

21 THE COURT: Oh, okay.

22 MR. TRAINOR: It was a different photograph. All
23 right. Thank you very much.

24 THE COURT: Okay.)

25 (Bench conference concluded.)

~~DIXON - CROSS~~

1 **THE COURT:** All right. If you want to just rephrase,
2 Mr. Trainor.

3 **MR. TRAINOR:** Thank you.

4 **BY MR. TRAINOR:**

5 **Q.** Mr. Dixon, you know what a proffer session is, don't you?

6 **A.** Repeat that.

7 **Q.** You know what a proffer meeting or a proffer session is,
8 don't you?

9 **A.** Offhand, no.

10 **Q.** You don't.

11 Well, while you were charged federally with other crimes,
12 you had meetings with at least one prosecutor here, Agent Hood,
13 and your attorney, Mr. Mitchell, didn't you?

14 **A.** Yes.

15 **Q.** And you were shown a picture of or a photograph of the
16 person you said -- who you said was T-Roy here in the
17 courtroom; correct?

18 **A.** Yes.

19 **Q.** And when you were shown that photograph at the meeting,
20 you indicated that might be T-Roy, but you're not sure?

21 **A.** It's possible that I might have said that and then
22 remembered later.

23 **Q.** Ah. All right. Well, during the time of 2014, you were
24 coming to Baltimore every single day to buy heroin; correct?

25 **A.** Yes.

~~DIXON - CROSS~~

1 Q. And the person you dealt with was AJ?

2 A. Yes.

3 Q. All right. And you came every single day because you had
4 a very bad heroin habit.

5 A. Yes.

6 Q. And you indicated that the place that you would generally
7 go would be a parking lot off of Carmine Avenue; is that right?

8 A. Yes.

9 Q. And that would be the Blue Fountain apartments; am I
10 right?

11 A. I don't know their name, but I know the location.

12 Q. All right. Apartments, it was an apartment parking lot;
13 right?

14 A. I believe that area to have been townhouses. You've got
15 the apartment complex at the very beginning and then the row
16 homes started, Carmine.

17 Q. All right. So there would be apartments and townhouses?

18 A. Yes.

19 Q. But it was purely a residential area, and there were
20 people coming and going that lived in that area; correct?

21 A. Yes.

22 Q. All right. Now, the person you have identified as being
23 in the photograph and the person you identified as T-Roy here
24 in the courtroom is a person that you never got drugs from.

25 A. No.

~~DIXON - CROSS~~

1 Q. I'm correct?

2 A. You are correct; I never physically bought drugs from him.

3 Q. All right. And you never traded guns for drugs with him?

4 A. No.

5 Q. You never saw him do anything except stand around in that
6 residential neighborhood, did you?

7 A. Yes, that's correct.

8 Q. That is correct.

9 And even then, during the 400 or 500 times that you came
10 there to buy heroin, you only saw him a few times; correct?

11 A. That's correct.

12 Q. And those times you didn't see him doing anything at all,
13 did you, except standing around?

14 A. Yes.

15 Q. That is correct?

16 A. That's correct.

17 MR. TRAINOR: I have no further questions.

18 Thank you.

19 MS. AMATO: No questions, Your Honor.

20 THE COURT: All right.

21 MR. HAZLEHURST: Nothing on behalf of Mr. Davis,
22 Your Honor.

23 MR. DAVIS: Nothing on behalf of Mr. Frazier.

24 THE COURT: Thank you, all.

25 Any redirect?

~~DIXON - CROSS~~

1 **MS. PERRY:** No, Your Honor. Thank you.

2 **THE COURT:** Okay. Thank you very much, Mr. Dixon.
3 You're excused.

4 (Witness excused.)

5 **THE COURT:** Is the Government calling another witness?

6 **MS. HOFFMAN:** The Government will call Frank Friend.

7 **MS. WHALEN:** Your Honor, could we approach? This
8 is . . .

9 **THE COURT:** Okay.

10 (Bench conference on the record:

11 **MS. WHALEN:** Thank you. This is one of the witnesses
12 that I indicated to Ms. Moyé that I might have an issue on, and
13 it also, I think, pertains to calls. Did you say that
14 Frank Friend will be testifying about a wire call and the
15 disputed --

16 **MS. HOFFMAN:** So he will not be testifying about the
17 disputed August 23rd call. He will be testifying about a wire
18 call that the agents believe is the same female speaker, and so
19 I just wanted to flag it for the Court because we believe the
20 call indicates that she's a co-conspirator.

21 **MS. WHALEN:** And which wire call is that?

22 **MS. HOFFMAN:** It's a call from June 18th of 2015, just
23 after Dante Bailey's arrest, close in time to Dante Bailey's
24 arrest.

25 **MS. WHALEN:** And my understanding of that is it's an

1 unknown female, and you intend to play it to the jury as well?

2 **MS. HOFFMAN:** Yes.

3 **MS. WHALEN:** So I guess I would object more to the
4 one -- the jail call that we objected to in the motion in
5 limine, which is that the speaker -- and I have to look and see
6 this one in particular because it's unknown, and this is the
7 first time I'm hearing that they're going to use this call.

8 **MS. HOFFMAN:** That's not quite right.

9 **MS. WHALEN:** We have been asking for exhibits with the
10 witnesses, and that was not provided to us.

11 So -- but to the extent that it is an unknown female
12 and the unknown female is not someone that has otherwise been
13 determined to be part of the conspiracy and if she is
14 speaking -- and I'm somewhat operating blind here -- then I
15 would object to that being not a member of the conspiracy, and
16 her statements would not be in furtherance of the conspiracy.

17 So I would object to that.

18 I have an additional --

19 **THE COURT:** Sure. Let me do one at a time.

20 What call is it?

21 **MS. HOFFMAN:** Sure. So it's Call-- it's B-863.

22 **THE COURT:** Can you possibly give me the page number.

23 **MS. HOFFMAN:** Yes. It's Page 278 of the --

24 **THE COURT:** Page 278?

25 **MS. HOFFMAN:** Of the wire, wiretap.

1 And --

2 **THE COURT:** Oh, so it's a wire call.

3 **MS. HOFFMAN:** Yeah.

4 **THE COURT:** Okay. Sorry. Page 278 of the wire calls.

5 **MS. HOFFMAN:** And so this is one of the wire calls
6 that -- we did turn over our wire call exhibits in the
7 beginning of February. I believe it was February 4th.

8 But in this call, Dante Bailey -- it's about the same
9 time that Dante Bailey is arrested by Sergeant Frank Friend,
10 who's about to testify. And AJ Spence has this wire
11 conversation with this unknown female.

12 And the unknown female -- he says that he's ducking
13 down low in his car, and she tells him basically what's going
14 on.

15 She says [reading]: You need to get out of there.

16 She says [reading]: They too deep. Is your car up
17 there? You need to get away.

18 He says [reading]: I'm ducking and dip, dip low.

19 And then she says [reading]: They -- they beeped. I
20 had pulled off. I had got that shit out of Reese's car, and I
21 pulled off.

22 I believe in context that she's referring to drugs or
23 some other sort of contraband that she got out of Reese's car
24 and then pulled away.

25 And then she continues to give him information about

1 where the police are and how to get away without being caught
2 by the police.

3 And so we do believe that, based on the context of the
4 call, she's clearly a co-conspirator.

5 **THE COURT:** This is also the same one that you
6 responded to the motion in limine by indicating that she's --

7 **MS. HOFFMAN:** Tentatively identified her.

8 **THE COURT:** Tentatively identified her.

9 **MS. HOFFMAN:** Yeah. There won't be a witness
10 testifying -- sorry.

11 There won't be a witness testifying in trial about her
12 identity, but we have -- there is a witness who has identified
13 her as Shante Everett. So that's why I said "tentatively." It
14 won't come out in trial, but there is somebody who has
15 identified her as Shante --

16 **THE COURT:** Right, which is what you proffered in the
17 other . . .

18 All right. Any other argument?

19 **MS. WHALEN:** No, Your Honor. Thank you.

20 **THE COURT:** All right. It appears to me in reading
21 this particular jail call that it is, even though she may not
22 be identified in the course of the trial, that the female is
23 someone who certainly appears to know what's going on and be
24 providing information that would be helpful to others involved
25 in the drug conspiracy. So I'm going to overrule the

1 objection.

2 **MS. WHALEN:** I'll try to be quick on the other.

3 Sergeant Friend testified at a motions hearing in this
4 case, and he testified that essentially he walked up on a group
5 after getting a call from an armed -- that there was an armed
6 subject in the area.

7 The group was five feet, approximately, away from the
8 car. He saw a gun in the wheel well of the car. He then
9 approaches the group, and later the gun is taken.

10 First, our position is that the gun -- if the
11 Government is attempting to bring the gun into evidence, which
12 I think they are --

13 **MS. HOFFMAN:** Not the actual gun, but he will be
14 testifying about what he saw and recovered.

15 **MS. WHALEN:** Okay. So then to the extent that he is
16 able to testify about the gun, I would object because I don't
17 think the gun -- that there's a nexus to the conspiracy.

18 A gun being in a wheel well that is 5 and a half --
19 5 feet away from a group, that he also testified that he had no
20 probable cause to arrest Mr. Bailey or anyone else; he had no
21 indication that that gun was one of the participant's in the
22 group, that -- I think that the gun is too far attenuated from
23 a conspiracy to be -- and the inference simply is a gun by
24 them, they must have possessed when -- we're not talking about
25 a gun in a car.

1 So that's one issue.

2 The second is, I don't know how much the Government
3 intends to elicit of -- an individual named Ivan Potts was --
4 so the Court recalls, what happened was that they take a
5 flashlight, look in the car, and find marijuana -- see
6 marijuana.

7 My client allegedly tells -- gets arrested, tells
8 Ivan Potts, another person there, something to the effect of,
9 Take your marijuana, like it was his marijuana. And he is then
10 arrested.

11 There is a conversation between Sergeant Friend and
12 Ivan Potts that I would object to coming into evidence as well.

13 The conversation -- it's like one question: Where was
14 it?

15 And he answers where it was.

16 The inference from his answer is that he was not the
17 person that possessed the pop or the marijuana. And I don't
18 believe the Government will show that Ivan Potts was a member
19 of the conspiracy or that his statements to a police officer in
20 this regard will be statements made in furtherance of the
21 conspiracy.

22 **MS. HOFFMAN:** Your Honor, if I could address those
23 two.

24 **THE COURT:** Go ahead.

25 **MS. HOFFMAN:** So, first of all, with respect to the

1 gun, I believe Sergeant Friend was very honest at the motions
2 hearing about the fact that he didn't charge Dante Bailey with
3 the gun. He didn't know whose gun it was.

4 It was found just 5 feet away from where this group
5 was standing. And they had responded to the location because
6 of the report of an armed person.

7 But even more importantly, we will be playing a wire
8 call from the day following that call -- I'm sorry, from the
9 day following that arrest in which Dante Bailey tells
10 Adrian Jamal Spence that the police recovered the joint from
11 the wheel well of the car. And so we believe that is certainly
12 a suggestion that it was his gun or at least that he knew it
13 was there.

14 **MS. WHALEN:** And, again, I'd renew my request that the
15 Government provide us with some indication of what exhibits,
16 when we're talking about social media and wire calls, they
17 intend to elicit from these officers.

18 **THE COURT:** Okay. In light of that proffer, I will
19 overrule the objection to Sergeant Friend's testimony.

20 **MS. HOFFMAN:** And then with respect to the second
21 issue, first of all, Ivan Potts was identified by William Banks
22 as Spotty. He identified him by photo. He didn't know his
23 real name, but he said, "That's Spotty." And he was a
24 co-conspirator of Gutta, who was part of Black Blood and was
25 frequently with Gutta. We saw a photo of him with Gutta.

1 And the conversation that Ms. Whalen is referring to,
2 I believe it came out to some extent at the motions hearing,
3 but essentially when Mr. Bailey was placed under arrest, he
4 called over to Spotty, Ivan Potts, and said, You gotta take
5 this charge.

6 And Ivan Potts then said, That's my marijuana.

7 So then Sergeant Friend put both of them under arrest.

8 Sergeant Friend, testing this claim that the marijuana
9 was Mr. Potts', asked Mr. Potts, "Where in the car is the
10 marijuana?" to which he replied, "It's in the back of the car,"
11 which I believe is what Sergeant Friend testified to.

12 He did not know that there was also -- there was
13 marijuana in the front of the car as well. So we are not
14 eliciting the statement for the truth of the matter. To the
15 contrary, we are eliciting it to show that it was not actually
16 Mr. Potts' marijuana but he was taking the charge because he
17 was instructed to do so by somebody who was his superior.

18 **THE COURT:** By Mr. Bailey. Okay. Objection is
19 overruled.

20 **MS. WHALEN:** Thank you, Your Honor.)

21 (Bench conference concluded.)

22 **THE COURT:** Go ahead.

23 **MS. HOFFMAN:** Oh, I'm sorry. I believe we have to
24 call the witness.

25 We will call Frank Friend to the stand.

~~FRIEND - DIRECT~~

THE CLERK: Please raise your right hand.

SERGEANT FRANK FRIEND, JR., GOVERNMENT'S WITNESS, SWORN.

THE CLERK: Please be seated. Please speak directly into the microphone.

State and spell your full name for the record, please.

THE WITNESS: Sergeant Frank Friend, Jr., F-R-A-N-K, F-R-I-E-N-D, Jr.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. HOFFMAN:

Q. Good afternoon, Sergeant Friend.

A. Good afternoon, ma'am.

Q. With which law enforcement agency are you employed?

A. The Baltimore City Police Department.

Q. And can you tell us your unit and title.

A. I'm a sergeant and I'm in the Southern District, district action team.

Q. How long have you been with the Baltimore Police Department?

A. I just started my 22nd year.

Q. And as of June of 2015, what unit were you in?

A. I was in the Southwest District drug enforcement unit.

Q. I want to direct your attention to June 18th of 2015, about 11:00 p.m. Were you asked to assist with a 9-1-1 call about an armed person?

~~FRIEND - DIRECT~~

1 A. Yes, ma'am.

2 Q. And where were you asked to go?

3 A. To the 1900 block of Forest Park Avenue.

4 Q. And without providing the description, can you tell me,
5 did the 9-1-1 dispatcher give you a description of the armed
6 person?

7 A. Yes, ma'am.

8 Q. And did you respond to the 1900 block of
9 Forest Park Avenue?

10 A. Yes, ma'am.

11 Q. And can you describe what that area is like there.

12 A. That area, one side of the street is like a residential
13 house; the other side has an apartment complex that is known
14 for its high drug trafficking and the violence that occurs in
15 and around that area of the apartment complex.

16 Q. Had you made arrests in that area before?

17 A. Yes, ma'am.

18 Q. I'm going to show you Government's Exhibit MAP-34.

19 And can you point to the approximate area on this map
20 where you responded to.

21 A. Right there, ma'am (indicating).

22 Q. You should be able to actually touch -- oh, it did show up
23 a little bit.

24 A. Yes, ma'am.

25 Q. And, for the record, it looks like you pointed to -- is

~~FRIEND - DIRECT~~

1 that a parking lot in front of the Blue Fountain apartments?

2 A. Yes, ma'am.

3 Q. Was there anyone with you when you responded?

4 A. Yes, ma'am.

5 Q. And who was with you?

6 A. Officer McNish and Officer Kritzer.

7 Q. And were you in a -- well, let me ask you this: What
8 happened when you got there?

9 A. When we got there, I observed five individuals. They were
10 kind of like huddled around each other. And it appeared later
11 on that they were all actually watching what I think was a
12 phone.

13 Q. And did anyone in the group match the description of the
14 armed person that had been provided to you?

15 A. Yes, ma'am.

16 Q. Did you notice anything -- did you approach the group of
17 individuals?

18 A. Yes, ma'am, I did.

19 Q. And did you notice anything unusual in the parking lot
20 when you approached?

21 A. Yes, ma'am. I observed a vehicle. It was like a
22 dark-colored Lexus that appeared to be running, and it appeared
23 to be unoccupied.

24 And then, also, I observed a handgun which was sitting on
25 a wheel well of, I believe it was a black Chrysler.

~~FRIEND - DIRECT~~

1 Q. And approximately can you tell us where in relation to the
2 Lexus and the Chrysler this group of individuals was standing.

3 A. The individuals were actually standing between the
4 Chrysler and another vehicle. I believe it was a Volkswagen.
5 They were actually standing in the middle but like in a --
6 almost like a semicircle watching this phone.

7 Q. And can you give an estimate of about how far away they
8 were standing from the Chrysler where you saw the gun.

9 A. Roughly about 5 feet.

10 Q. Did you approach the -- when you saw the gun, what did you
11 do?

12 A. Due to the nature of the call, still with the individual
13 fitting the description, our threat was still in front of us
14 due to the call, so at which time I engaged in conversation
15 with the individuals, asking any of the individuals if any of
16 them had any weapons on 'em, at which time they all replied
17 "no," and basically gave myself and the other officers
18 permission to search their persons.

19 Q. And did you search their persons?

20 A. Yes, ma'am.

21 Q. And did any of them have weapons on them?

22 A. No, ma'am.

23 Q. At that point did you recover the gun on the wheel well of
24 the Chrysler?

25 A. Yes, ma'am.

~~FRIEND - DIRECT~~

1 Q. And what kind of gun was it?

2 A. It was a black handgun. I can't remember the exact type.
3 I don't remember the exact type, ma'am.

4 Q. Would it refresh your recollection to look at your notes?

5 A. Yes, ma'am.

6 Q. Or, I'm sorry, a report?

7 A. Yes, ma'am.

8 MS. HOFFMAN: Permission to approach?

9 THE COURT: Yes.

10 BY MS. HOFFMAN:

11 Q. (Hanging.)

12 And if you could just take a look at that. And then when
13 you're ready, let me know.

14 A. Yes, ma'am. I'm ready.

15 Q. Does that report refresh your recollection?

16 A. Yes, ma'am.

17 Q. And what kind of gun was it?

18 A. It was one black Ruger P89, 9-millimeter handgun with the
19 serial number of 310-86581, with one magazine and with 6 live
20 9-millimeter rounds.

21 Q. Now, you mentioned that, that you noticed another car
22 nearby. I believe you said it was a dark Lexus that was
23 running; is that right?

24 A. Yes, ma'am.

25 Q. And did you ask the members of the group whose car it was?

~~FRIEND - DIRECT~~

1 **A.** Yes, ma'am, I did.

2 **Q.** And did anyone indicate that it was their car?

3 **A.** Yes, ma'am. An individual that was wearing a black
4 T-shirt, black shorts, who was later identified as
5 Mr. Dante Bailey, advised the vehicle belonged to him.

6 **Q.** And would you recognize Dante Bailey if you saw him again
7 today?

8 **A.** Yes, ma'am.

9 **Q.** Do you see him in the courtroom today?

10 **A.** Yes, ma'am. He's sitting with defense counsel, what looks
11 like a gray button-up shirt, gray tie (indicating).

12 **Q.** What happened after Mr. Bailey indicated that the car, the
13 dark Lexus, was his?

14 **A.** Officer McNish then walked down to the dark Lexus and with
15 his departmental flashlight illuminated the inside of the
16 vehicle, at which time he -- he advised he observed --

17 **Q.** Well, without telling me what Officer McNish said, what
18 did you do next?

19 **A.** I then walked down to the black -- I'm sorry, the
20 dark-colored Lexus; and then with my departmental flashlight, I
21 illuminated the inside of the vehicle, ma'am.

22 **Q.** And what did you see inside the vehicle?

23 **A.** Inside the vehicle, I observed a clear plastic bag with
24 plant material, suspected marijuana, sitting on the front
25 console.

~~FRIEND - DIRECT~~

1 And then due to the -- there was a console in the rear.
2 There was also a clear plastic bag containing marijuana also on
3 the rear console, too.

4 Q. And were photographs taken of what you were able to
5 illuminate with your flashlight?

6 A. Yes, ma'am.

7 Q. I'm going to show you Government's Exhibit AP-3A.

8 And can you tell us what we're looking at here.

9 A. Yes, ma'am. This is the rear console of the Lexus.

10 Q. And is this how the interior of the vehicle looked to you
11 illuminating with your flashlight?

12 A. Yes, ma'am.

13 Q. And can you indicate what we're looking at in this rear
14 console area.

15 A. Right here is a -- the clear plastic bag with plant
16 material, suspected marijuana.

17 And right here is also a black scale which had plant
18 material on top of the scale, suspected marijuana.

19 Q. And based on your 20-some years in the police force, are
20 you familiar with how marijuana looks?

21 A. Yes, ma'am.

22 Q. And did you recognize the substance to be marijuana?

23 A. Yes, ma'am.

24 Q. Did the quantity of marijuana or suspected marijuana look
25 to you to be consistent with personal use or with distribution?

~~FRIEND - DIRECT~~

1 **MS. WHALEN:** Objection; relevance.

2 **THE COURT:** Overruled.

3 **THE WITNESS:** With the scale, I -- my personal opinion
4 was distribution, ma'am.

5 **BY MS. HOFFMAN:**

6 **Q.** At that point did you place Dante Bailey under arrest?

7 **A.** Yes, ma'am.

8 **Q.** And was a search of the vehicle conducted?

9 **A.** Yes, ma'am, it was.

10 **Q.** And what, if anything, was recovered?

11 **A.** The clear plastic bag containing plant materials,
12 suspected marijuana, from the front console and then the plant
13 material in the clear plastic bag, suspected marijuana, on the
14 rear console and the digital scale, ma'am.

15 **Q.** I'm going to approach and show you
16 Government's Exhibit D5. (Hanging.)

17 Do you recognize that exhibit?

18 **A.** Yes, ma'am. It appears to be the marijuana that was
19 submitted on that night.

20 **Q.** And I'm going to show you Government's Exhibit AP-3B.

21 And can you tell us what we're looking at here.

22 **A.** What you're looking at is -- Item 1 is a clear plastic bag
23 containing plant material, suspected marijuana.

24 Item 2 is another clear plastic bag containing plant
25 material, suspected marijuana.

~~FRIEND - DIRECT~~

1 And then Item 3 is the digital scale which has plant
2 material residue on it, suspected marijuana.

3 Q. And is this a photograph of the contents of
4 Government's Exhibit D5 that you have in front of you?

5 A. Yes, ma'am, it is.

6 Q. Now, when you placed Mr. Bailey under arrest, did he make
7 any statements?

8 A. Yes, ma'am, he did.

9 Q. And what did he say?

10 A. He advised that the marijuana wasn't his. And then he
11 yelled over to the individuals that walked away, one of the
12 individuals, and advised him to take his marijuana charge.

13 Q. And you said Mr. Bailey said to take his charge. What
14 does that mean?

15 A. Meaning that the marijuana -- suspected marijuana wasn't
16 his and that it belonged to somebody else.

17 Q. Did it seem to you like a direction or order?

18 MS. WHALEN: Objection.

19 THE COURT: Sustained.

20 BY MS. HOFFMAN:

21 Q. What did the individual who Mr. Bailey told to take the
22 charge do at that point?

23 A. At which time a gentleman wearing a white tank top, I
24 believe it was black shorts, later identified as Ivan Potts,
25 walked over to me and advised me that the marijuana was his.

~~FRIEND - DIRECT~~

1 Q. And did you -- did Mr. -- did you ask Mr. Potts anything
2 at that point?

3 A. Yes, ma'am. At that point I then -- I asked Mr. Potts, I
4 said, "Well, if the marijuana's yours, where was the marijuana
5 in the vehicle?"

6 Q. And what did he say?

7 A. I believe he -- he replied that the rear console -- the
8 rear of the vehicle that the marijuana was.

9 Q. And was that accurate?

10 A. No, ma'am, it wasn't.

11 Q. Can you explain.

12 A. Because there was additional marijuana in the front of the
13 car, front console, and also there was a scale in the car.

14 Q. Was Mr. Potts placed under arrest as well?

15 A. Yes, ma'am, he was.

16 Q. And was the marijuana sent to the Baltimore Police
17 Department laboratory for testing?

18 A. Yes, ma'am, it was.

19 Q. Were either Mr. Bailey or -- well, I'm sorry. I should
20 have asked you: Were you later able to identify the individual
21 who took the charge, who came over?

22 A. Yes, ma'am. He was identified as Mr. Ivan Potts.

23 Q. Thank you.

24 And I'm going to show you Government's Exhibit IND-70,
25 which has come into evidence as a photograph of Ivan Potts.

~~FRIEND - DIRECT~~

1 Were either Mr. Bailey or Mr. Potts charged with the gun
2 that you recovered from the wheel well of the Chrysler?

3 **A.** No, ma'am.

4 **Q.** And why not?

5 **A.** I had no probable cause to charge any of the individuals
6 'cause I didn't observe them in and around that vehicle or go
7 to that wheel well.

8 **Q.** Following Mr. Bailey's arrest, did you have an opportunity
9 to review any wire calls of potential relevance?

10 **A.** Yes, ma'am.

11 **Q.** And I'm going to play you a few calls from
12 Government's Exhibit Wire B which has come into evidence as a
13 disc of wire calls intercepted over a phone number belonging to
14 Adrian Jamal Spence.

15 I'm going to start with -- by playing you Wire Call B863.

16 **MS. HOFFMAN:** And the jurors can find the transcript
17 of this call on Page 278 of the wire call tab of their
18 transcript binders.

19 And I'm pulling up the transcript on the right side of
20 the screen.

21 **BY MS. HOFFMAN:**

22 **Q.** Are you able to see that there, Sergeant Friend?

23 **A.** Yes, ma'am.

24 **Q.** And are you able to read the -- are you able to read the
25 date of the call?

~~FRIEND - DIRECT~~

1 A. The start date, yes, ma'am.

2 Q. What's the date of the call?

3 A. It's going to be 6/18/2015, June 18th.

4 Q. Is that the same day that Mr. Bailey was arrested?

5 A. Yes, ma'am.

6 Q. And can you tell us the time of the call here
7 (indicating).

8 A. Ma'am, the arrow is over top of some of the numbers. I
9 can't see the exact --

10 Q. Oh, sorry.

11 A. Yes, ma'am. It's at 23:06:42 seconds, which is 11 o'clock
12 and -- 11 -- 11:06 p.m.

13 Q. And is that around the time that you and your fellow
14 officers had responded to that area?

15 A. Yes, ma'am.

16 Q. All right. I'll play this call.

17 (Audio was played but not reported.)

18 **BY MS. HOFFMAN:**

19 Q. And, Sergeant Friend, I forgot to ask you, for the record,
20 can you also indicate who the speaker is here on the right side
21 of the screen.

22 A. Adrian Spence.

23 Q. Thank you.

24 I'm going to play you Wire Call B877, and I'm actually
25 going to hand out transcripts of this one.

~~FRIEND - DIRECT~~

(Counsel conferred.)

BY MS. HOFFMAN:

Q. (Hanging.)

MS. HOFFMAN: I apologize. Does everyone have a transcript?

BY MS. HOFFMAN:

Q. Sergeant Friend, I'm going to play Call 877. And would you mind, before I play it, reading the date of the call here (indicating).

A. Yes, ma'am. 6/19/2015, June 19th.

Q. And when is that in relation to the arrest we've just been talking about?

A. It's the next day.

Q. And then could you also read for the record the conversants in this conversation?

A. Dontray Johnson to Adrian Spence.

Q. All right. I'm going to play this call.

(Audio was played but not reported.)

BY MS. HOFFMAN:

Q. Sergeant Friend, I'm going to play you one more call, and this one is Wire Call B912. And this one is at Page 282 of the transcript, the wire call transcripts tab of the transcript binders.

And, again, Sergeant Friend, can you start by telling us the date of this call.

~~FRIEND - DIRECT~~

1 **A.** Yes, ma'am. It's 6/19/2015, June 19th.

2 **Q.** And, again, is that the day after Mr. Bailey was placed
3 under arrest?

4 **A.** Yes, ma'am.

5 **Q.** And can you tell us the conversants in this call.

6 **A.** Dante Bailey to Adrian Spence.

7 **Q.** Okay. I'm going to play from the beginning.

8 (Audio was played but not reported.)

9 **BY MS. HOFFMAN:**

10 **Q.** Sergeant Friend, who are they talking about there?

11 **A.** Me, ma'am.

12 (Audio was played but not reported.)

13 **MS. HOFFMAN:** And I'm going to pause here at two
14 minutes and fifty three seconds and skip to six minutes and one
15 second.

16 (Audio was played but not reported.)

17 **THE COURT:** What page would that be?

18 **MS. HOFFMAN:** And -- sorry. I believe it's Page 287
19 of the binders.

20 (Audio was played but not reported.)

21 **BY MS. HOFFMAN:**

22 **Q.** And I'm going to pause here at seven minutes and thirteen
23 seconds and play -- I'm going to skip ahead to eight minutes
24 and forty-six seconds, which is the same page of the transcript
25 binders.

~~FRIEND - DIRECT~~

(Audio was played but not reported.)

BY MS. HOFFMAN:

Q. Sergeant Friend, I'm going to show you Government's --

MS. HOFFMAN: Well, actually, Your Honor, may we approach briefly?

THE COURT: Sure.

(Bench conference on the record:

MS. HOFFMAN: So, Your Honor, with the witness William Banks last week, we used Government's Exhibit DEM-6, which was a glossary of terms. And Mr. Hazlehurst had objected to it coming into evidence as an exhibit.

And I think we don't need to move it into evidence as an actual exhibit, but we would like to use it as a demonstrative to refer back to during the trial with different witnesses.

And so what I was going to do was refer Sergeant Friend to the definition of a joint in the DEM-6. I thought I should flag it before doing it.

THE COURT: Why do you need DEM-6? Why don't you ask him, based on his 22 years, what does a joint mean to him?

MS. HOFFMAN: I suppose I could. But I guess the bigger issue is that we did want to use DEM-6, the glossary of terms, with multiple witnesses in the trial, not to have them interpret things themselves, but to refer to the definitions of things as they're written in that glossary.

~~FRIEND - DIRECT~~

1 **THE COURT:** I'm still not quite seeing -- I mean,
2 there are a couple of ways of asking. Just like with this
3 witness: What does a joint mean to you?

4 If you've got a witness who you think might know what
5 a particular term means, you would ask them that term, what do
6 they -- what they understand it to be or something like that.
7 I don't know.

8 For this witness, I can't see that you need it. Maybe
9 we could have a more full conversation about why you would need
10 to use it or how you would use it --

11 **MS. HOFFMAN:** Sure.

12 **THE COURT:** -- before the next witness.)

13 (Bench conference concluded.)

14 **THE COURT:** I guess I should ask -- I don't know how
15 much more you have -- whether this is a good breaking point.

16 **MS. HOFFMAN:** Sure. I really just had one or two more
17 questions.

18 **THE COURT:** Well, then go ahead.

19 **BY MS. HOFFMAN:**

20 **Q.** Sergeant Friend, did you hear when Dante Bailey said,
21 "They got the joint"?

22 **A.** Yes, ma'am.

23 **Q.** And based on your 20-some years of experience in the
24 police force, what did you understand -- what is a joint?

25 **A.** It's a street name for a game -- a gun, I'm sorry, a gun.

~~FRIEND - DIRECT~~

1 **MS. HOFFMAN:** I have no further questions.

2 **THE COURT:** All right. We'll be continuing with this
3 witness after the lunch break, but we'll take the lunch recess
4 until 2:00.

5 I'll start by excusing the jury.

6 (Jury left the courtroom at 12:57 p.m.)

7 **THE COURT:** All right. And the witness can step down.
8 Be back at 2:00.

9 And before I excuse the gallery, if I could just
10 indicate that it would be best if there were not outbursts that
11 are audible as those were during the course of the previous
12 testimony. It's not helpful. If you can refrain from doing
13 that, thank you.

14 The gallery is excused.

15 And just one quick thing for the Government. Who
16 would you be expecting to call your next couple of witnesses
17 after cross-examination?

18 **MS. HOFFMAN:** After Frank Friend, the next witness
19 will be Juan Diaz, a Homicide detective.

20 **THE COURT:** Okay.

21 **MS. HOFFMAN:** And I'm sorry. And then
22 Detective Richard Moore, another Homicide detective.

23 **THE COURT:** Okay. So we should perhaps anticipate
24 having a short conversation at 2:00, right before we get
25 started.

1 **MS. WHALEN:** To start with -- I'll have something with
2 Detective Moore.

3 **THE COURT:** Okay. All right. I'll see you all at
4 2:00.

5 (Luncheon recess taken.)

6 **THE COURT:** All right. Before the jury comes in,
7 Ms. Whalen, you had an issue?

8 **MS. WHALEN:** Yes, Your Honor, but it was with regard
9 to -- I'm sorry. I jumped back to Sergeant Friend.

10 So -- Sergeant Moore or Detective Moore.

11 Your Honor, I am advised that the Government intends
12 to elicit from this witness: Did you meet with William Banks?

13 And I don't know how far they're going to go.

14 But did you meet with William Banks?

15 And this is the investigator who investigated the
16 Ricardo Johnson, or Nutty B, murder.

17 **MS. HOFFMAN:** Brian Johnson.

18 **MS. WHALEN:** I'm sorry. Brian Johnson, or Nutty B,
19 murder.

20 What occurred this weekend, on Saturday I was going
21 through the regular discovery that had been provided to us; and
22 there was a report, a two-page report. Much of it had been
23 blacked out or redacted.

24 It appeared that there was someone who talked to the
25 detective, and it had been redacted. So I made a request of

1 the Government to find out is that someone we should know about
2 and, in fact, was told that that was William Banks.

3 Our -- if you may recall, my cross and others
4 cross-examined -- and I think one attorney actually
5 specifically said, So if you did speak with a Homicide
6 detective about this murder, then there should be a report
7 about that.

8 And there were other questions exactly like that.

9 There is no Jencks material that indicates that
10 Mr. Banks told a Homicide detective about any of the homicides,
11 and I specifically asked questions about that because there is
12 Jencks material about his handlers. And if you recall, he said
13 his handlers -- he told his handlers.

14 Anyways, the long and short of it is I think the
15 Government should be precluded at this stage, when there was a
16 Jencks violation, when we have been essentially caught because
17 our cross-examination was based upon what was provided to us.
18 And they should not be able to try to rehabilitate Mr. Banks by
19 bringing out the fact that he talked to the Homicide detective
20 at all.

21 **THE COURT:** Okay.

22 **MS. HOFFMAN:** So, Your Honor, there is a report in
23 Detective Moore's Homicide file. It is a two-page progress
24 report that starts out by saying: On September 30th of 2015,
25 which is the day after the murder occurred, I met with a source

1 who wished to remain anonymous.

2 And then there is a paragraph of information that the
3 source provided that is fully consistent with the information
4 that William Banks testified to on the stand last week. So the
5 anonymous source says that in the weeks leading up to the -- I
6 don't have it right in front of me, but in substance, that
7 Nutty B was killed because he would not pay gang dues that were
8 being collected for Dante Bailey.

9 And Ms. Whalen is completely right. She flagged that
10 this paragraph was redacted.

11 When I went and looked at it, I realized this
12 anonymous source is probably William Banks. That was confirmed
13 with the Homicide detective that that was William Banks, and I
14 turned over the unredacted paragraph.

15 I think Ms. Whalen concedes that the information that
16 he provided the day after the murder was fully consistent with
17 what he testified to on the stand.

18 The report is, of course, Richard Moore's Jencks, and
19 everyone has it now.

20 I did not intend to question Detective Moore about the
21 substance of what William Banks told him. I did intend to ask
22 him, "Did you meet with William Banks during your
23 investigation, you know, show him a photo and have him say that
24 he did, in fact, meet with him the day after the murder?"
25 without getting into the substance at all of what was said.

1 **THE COURT:** Okay. So you're not getting into the
2 substance of it. In that case, how would it be inconsistent?
3 I mean, didn't -- I could be remembering wrong. I thought that
4 the point was, while Mr. Banks may have met with Baltimore City
5 Homicide detectives, you didn't have any way of knowing that he
6 had told this particular story.

7 **MS. WHALEN:** As I understand his testimony on various
8 cross, that he, in fact, told detectives or his handler, excuse
9 me, about the homicides.

10 And we questioned him about that and said, "In other
11 words, the inference is you did not do that and you are lying."

12 Well, now the Government wishes to put on the Homicide
13 detective to say, "I met with him."

14 The inference left with the jury is, Oh, he wasn't
15 lying, and our cross-examination was faulty. And we can now
16 not go into the substance -- even if there is an inconsistent
17 statement in there, we can't go into the substance because the
18 substance may be consistent; we shoot ourselves in the foot,
19 number one.

20 And, number two, any inconsistency we bring up, then
21 the Government may be able to bring up something about the
22 content.

23 **THE COURT:** Okay. Well, I think Ms. Whalen has good
24 points here, and you should simply not ask Detective Moore
25 about his having a conversation with Mr. Banks the day after

1 that particular murder.

2 Anything else relating to the next --

3 **MS. WHALEN:** This is really a procedural issue right
4 at this moment.

5 I'm not sure if it was aware -- or if I made it clear.
6 We are not being told what exhibits are being used with these
7 detectives, and these detectives are not the sponsoring
8 witness, for instance, of wire calls, social media. They are
9 just simply being asked to publish them to the jury for the
10 first time, whether it be transcripts or the actual calls.

11 There are -- we've collectively at lunch discussed the
12 various issues and problems with that and our ability to object
13 and whether this is truly a basis -- a witness who has a basis
14 of knowledge and should be the sponsoring witness.

15 Given the time, what I'm asking for this next witness,
16 Detective Moore, is: What exhibits is he going to be seeing --
17 or to be shown? And I guess Detective Ellis, too, is coming up
18 as well -- I'm sorry, Detective Diaz on the Ellis murder.

19 And so I guess just -- we'd ask for that now. And
20 then at the end of the day, we may want to address the issues
21 further.

22 **THE COURT:** Okay.

23 **MS. HOFFMAN:** Your Honor, we can certainly do our best
24 to flag the calls that we're going to use. Frequently we don't
25 know which specific calls we're going to use with each witness

1 until, you know, meeting with them that morning. And so it's
2 hard for us to, long ahead of time, give the numbers of the
3 specific calls that we're going to play.

4 We did, as I have mentioned, turn over the -- all the
5 wire calls and jail calls that we intended to use in this trial
6 back at the end of January and early February. And so the
7 defendants have had it for -- well, I should say we turned it
8 over in discovery two years ago, but they have had the exact
9 calls that we intend to play for almost two months now.

10 And it's -- you know, there are a lot of witnesses in
11 this case. There are a lot of calls. We are making decisions
12 sometimes up until the last minute about which particular calls
13 we're going to play through each witness, and so it would be
14 virtually impossible to give a lot of advanced notice about
15 which specific calls are to be played.

16 We can -- I mean, I do now know which calls I intend
17 to play with Detective Moore, for instance. And so I'm happy
18 to let defense counsel know what those calls are. But I do
19 want to be clear that going forward, it's not going to be
20 something that's easy to do. And it may be something that
21 we're not able to do until right before the witness gets on the
22 stand.

23 **THE COURT:** Okay. Well, let's start with
24 Detective Moore.

25 **MS. HOFFMAN:** Sure.

1 Detective Moore, I plan to play J-29, J-34, and J-36.

2 **THE COURT:** Okay. And do you know about
3 Detective Diaz?

4 **MS. PERRY:** Your Honor, I do not intend to play any
5 calls with Detective Diaz. I do intend to show him excerpts
6 from social media, SM-2, Pages 18, 19, and 20.

7 **THE COURT:** Okay. Thank you.

8 Let's see. We had a witness on the stand.

9 **MS. HOFFMAN:** And, Your Honor, did you prefer to
10 address the 9-1-1 calls before the Homicide detective?

11 **THE COURT:** Oh, I guess I thought if there was an
12 issue about a 9-1-1 call in either of these detectives, that
13 Ms. Whalen would have reminded me about it.

14 But so, yes, I guess I need to.

15 Sorry. We'll have to wait on the witness.

16 Which 9-1-1 calls are you planning to call with the
17 two witnesses this afternoon?

18 **MS. PERRY:** Yes, Your Honor. We intend to play 9-1-1
19 calls CAD-1-A, B, and C. They're 9-1-1 calls made just after
20 the Antoine Ellis murder. And we do intend to -- are seeking
21 to introduce them through Detective Diaz.

22 **THE COURT:** Okay. Tell me those again. That's -- or
23 which -- what's the date of the murder?

24 **MS. HOFFMAN:** Sure. And, Your Honor, you should have
25 them in your transcript binder. If you go to the 9-1-1 calls,

1 the three that will be played through Detective Diaz are
2 CAD-1-A, CAD-1-B, and CAD-1-C. So they're the first three
3 calls in your transcript binder behind the 9-1-1 calls tab.

4 **THE COURT:** See, the first three calls in my book are
5 all CAD-1-B.

6 **MS. HOFFMAN:** And if you look down below in the
7 exhibit sticker, they should be correctly labeled in the
8 exhibit sticker. I'm sorry about that. That is an error in
9 the heading.

10 **THE COURT:** I see. Okay. But it's the calls relating
11 to the November 22nd, 2012 event?

12 **MS. HOFFMAN:** That's correct.

13 **THE COURT:** Yes. Okay. I've reviewed all the
14 transcript. I have reviewed the case law and your memos.

15 But if you want to say anything, Mr. Enzinna.

16 **MR. ENZINNA:** Well, Your Honor, just addressing the
17 November 22nd, 2012 calls, you know, as we said in our briefs,
18 the factual basis for these hearsay exceptions aren't there,
19 for one thing.

20 In one of the calls, the Government describes it as
21 the caller saying he just heard gunshots. In fact, he doesn't
22 say he just heard gunshots. He says he heard gunshots.
23 There's nothing to indicate when he heard them.

24 There's also discussion that he describes the shooter
25 as -- in a certain way; but, in fact, he says he saw a guy run

1 from a car. He doesn't say that that's the shooter.

2 But -- so I don't think that the bases for the hearsay
3 exceptions are present in these because we don't know the time
4 interval between when whatever happened happened and the
5 statements that are being made.

6 But the other sort of overarching comment, Your Honor,
7 is that these calls are simply cumulative. I mean, they may
8 add a little drama to the case, but they don't -- they're not
9 relevant to prove any issue other than that somebody was shot
10 and at that time and on that day and at that place. And there
11 is no dispute about that. These calls are just -- just
12 cumulative.

13 **THE COURT:** Okay. Ms. Hoffman.

14 **MS. HOFFMAN:** Thank you.

15 We do believe that the calls come in as excited
16 utterances and as present-sense impressions. These are classic
17 hearsay exceptions.

18 I don't think it can be really disputed that as to
19 each of these calls, the caller has just witnessed a startling
20 event, either a fatal shooting or, with respect to
21 Ricardo Johnson, his abduction, which was observed or heard
22 over the phone, and that they were all still under the stress
23 of excitement that those events caused.

24 I think these types of calls are routinely admitted in
25 the Fourth Circuit. And, of course, the Supreme Court has

1 endorsed their admission as well, although dealing with the
2 Confrontation Clause issue has held that these types of calls
3 are not testimonial and there's no Confrontation Clause bar to
4 their admission.

5 I did want to respond to the argument that they're
6 cumulative. They're not cumulative. They -- each of the calls
7 advances the ball in some way, whether because there's a
8 description of a suspect fleeing -- that's what we have with
9 respect to the Antoine Ellis murder -- or because they help
10 establish the time, location, and manner of death or, with
11 respect to Ricardo Johnson, the time, location, and manner of
12 his abduction.

13 And we culled through dozens and dozens and dozens of
14 9-1-1 calls and picked just the calls that do advance the ball
15 in some way.

16 And they're all probative when they're linked up with
17 other evidence. So, for example, with respect to the
18 Antoine Ellis murder, there are two callers who describe a
19 suspect fleeing. One of them refers to him as the shooter.
20 The other does not.

21 But they both describe someone fleeing the scene
22 wearing a gray, hooded sweatsuit, which will be linked up with
23 surveillance footage. And I see that Your Honor may have heard
24 enough, so I will stop talking unless you have more questions.

25 **THE COURT:** No. I'm fine.

1 I did. As I said, I reviewed all of these over the
2 weekend, knowing that they were coming up. And I've reviewed
3 the arguments for them. I think all of the calls that have
4 been offered and that I have read the transcripts of are
5 admissible.

6 They -- it seems to me, taken in any commonsense way,
7 whether or not a particular caller says, "I just heard
8 shots" -- and I note in the first group of the three, one of
9 the three does use the word "just." "Someone just got shot."
10 They all appear -- again, considered in a commonsense way -- to
11 have happened very shortly after the time of certainly a
12 startling event, several of them being shootings, the one
13 abduction. They are either present-sense impression or excited
14 utterance or both.

15 I think the Davis case from the Supreme Court at
16 547 U.S. 813 is one of the most helpful, in addition to the
17 other cases that were cited by counsel.

18 What we have, again, are statements that are being
19 made under the stress of a very recent and startling event.
20 They all appear to be related to calls for help, trying to get
21 the police to respond in an emergency situation, not something
22 testimonial.

23 To the extent that there is interrogation by police or
24 the dispatcher during the 9-1-1 call, all of that appears to be
25 in response, the primary purpose, that is, being enabling the

1 police to provide assistance in an ongoing emergency.

2 These are situations where there are armed shooters --
3 according to the calls -- that have not been taken into custody
4 or an ongoing abduction.

5 And I note that in regard to the abduction relating to
6 Mr. Johnson, there was an argument made, which certainly is
7 correct, that the second call is longer after the abduction.

8 But what the witness in that case is describing is
9 events unfolding right in front of her, meaning the door being
10 open, which she is -- she says is making her nervous because it
11 is obviously adding to her anxiety and is not what she is
12 accustomed to seeing.

13 So for those reasons, I think that the 9-1-1 calls are
14 admissible.

15 **MS. HOFFMAN:** Thank you.

16 And I did just want to flag that one of the three
17 jail calls that I just mentioned would be played through
18 Detective Richard Moore is the jail call -- the August 23rd
19 jail call that Ms. Whalen has objected to, and I know
20 Your Honor addressed at the bench this morning that you did
21 believe that she was a co-conspirator, based on the wire
22 call --

23 **THE COURT:** Right.

24 **MS. HOFFMAN:** -- but I wanted to clarify that.

25 **MS. WHALEN:** I was going to highlight that as well,

1 Your Honor. And I don't have additional argument other than
2 what we argued at the bench earlier.

3 There is one other request that I would make, just
4 because we're here. To the extent I've seen that the
5 Government has on some other audio calls played them more than
6 once or gone back and highlighted certain sections, I would ask
7 that -- and would object in advance if they intend to do that.

8 I think they play it once and the jury has the
9 transcript to aid them and that it would be improper to replay
10 these calls. And now I'm talking specifically about Agent --
11 or Detective Moore's calls that I was just informed, which is
12 J-29, J-34, and J-36.

13 **THE COURT:** Okay. Well, I recall the Government
14 pausing from time to time. I don't recall a lot of replaying.
15 I may not be remembering it, but a pause from time to time in
16 the middle of a call to ask a clarifying question seems
17 perfectly appropriate.

18 **MS. WHALEN:** That's not the problem that I have. I
19 agree; pause is fine. It's just the replaying of evidence.

20 **THE COURT:** Okay. Well, we'll try to avoid that.

21 **MS. HOFFMAN:** There is one part of a call that will be
22 played through Detective Moore where there's some whispering,
23 and I wasn't sure whether I would replay that part. But
24 depending on how loud it comes out of the speaker, I thought I
25 might -- it's maybe a 15-second portion of whispering. That

~~FRIEND - CROSS~~

1 was one portion that I thought I might replay, depending on how
2 it comes out.

3 **THE COURT:** Okay.

4 **MS. WHALEN:** Well, we're probably going to object,
5 just to let you know. And then you'll know what my objection
6 is, because I think that's disputed. And so to the extent the
7 Government wants a transcript in front of the jury to get their
8 version of the whispering, I think that would be improper,
9 having it more than once.

10 **THE COURT:** Okay. All right. Now let's get the
11 witness back on the stand and get the jury back in.

12 (Jury entered the courtroom at 2:23 p.m.)

13 **THE CLERK:** Sergeant Friend, you're still under oath.

14 **THE WITNESS:** Yes, ma'am.

15 **THE COURT:** Ms. Whalen.

16 **MS. WHALEN:** Thank you, Your Honor.

17 CROSS-EXAMINATION

18 **BY MS. WHALEN:**

19 **Q.** Good afternoon, Sergeant.

20 **A.** Good afternoon, ma'am.

21 **Q.** Let me take you back to June 18th of 2015, what you told
22 us about when you stopped -- or, actually, you got a call to go
23 to the parking lot area; is that correct?

24 **A.** Yes, ma'am.

25 **Q.** And where specifically was that?

~~FRIEND - CROSS~~

1 A. 1900 block of Forest Park Avenue.

2 Q. All right. And that is in the Southwestern District of
3 the city; is that correct?

4 A. Yes, ma'am.

5 Q. All right. As opposed to I think there's been some talk
6 of Northwestern District and the like; is that right?

7 A. That's part of the Southwest District, so that's how I
8 know it, ma'am.

9 Q. All right. Because you actually worked at that time frame
10 in that district; is that correct?

11 A. In the Southwest, yes, ma'am.

12 Q. So you knew the area pretty well?

13 A. Yes, ma'am.

14 Q. All right. And you didn't know a person by the name of
15 Dante Bailey at that time, did you?

16 A. I knew of him, yes, ma'am.

17 Q. You knew of him?

18 A. Yes, ma'am.

19 Q. All right. But you did not know him, in other words,
20 interact and, you know, "Hello. How are you?" and the like; is
21 that correct?

22 A. No, ma'am, I didn't say, "Hello. How are you?" No,
23 ma'am.

24 Q. All right. Now, you indicated that you got a call to go
25 there.

~~FRIEND - CROSS~~

1 Did you have some specific information about the clothing
2 of the individual that you were to look for?

3 A. Yes, ma'am.

4 Q. And that clothing was blue and gray; is that correct?

5 A. Yes, ma'am.

6 Q. Blue top; is that right?

7 A. I believe it was a blue -- yes, ma'am. Blue shirt, yes,
8 ma'am.

9 Q. And Dante Bailey was wearing what that day?

10 A. He was wearing -- I believe it was a black shirt, black
11 shorts, I believe it was, ma'am.

12 Q. All right. And so when you kind of pulled into this
13 parking lot, you saw a group of five men in somewhat of a
14 semicircle; is that right?

15 A. Yes, ma'am.

16 Q. On one side of them was a Volkswagen?

17 A. Yes, ma'am.

18 Q. And then on the other side of the group, is this correct,
19 was a Chrysler?

20 A. Yes, ma'am.

21 Q. All right. Were they parked in spaces, parking spaces?

22 A. Yes, ma'am.

23 Q. And how many spaces in between the two vehicles or cars?

24 A. I don't recall how many exact spaces, ma'am.

25 Q. Enough to fit at least the five gentlemen standing around;

~~FRIEND - CROSS~~

1 is that correct?

2 A. Yes, ma'am.

3 Q. Okay. And they were looking at a phone, you believe; is
4 that right?

5 A. Yes, ma'am.

6 Q. Now, about -- as you're approaching, you see a wheel well
7 in the Chrysler; right?

8 A. Yes, ma'am.

9 Q. And that is 5 feet away from the group; right?

10 A. Yes, ma'am.

11 Q. And it could have been more than 5 feet; is that correct?

12 A. Roughly, give or take, 5 feet, yes, ma'am.

13 Q. Now, the group is standing there looking at the phone;
14 right?

15 A. Yes, ma'am.

16 Q. And even as you approach, they're looking at the phone; is
17 that correct?

18 A. Yes, ma'am.

19 Q. In other words, they didn't disperse and run; right?

20 A. Correct.

21 Q. Okay. And you say to -- well, first of all, did you walk
22 up to them with your gun drawn initially?

23 A. No, ma'am.

24 Q. So you walked up, and then you saw the gun in the wheel
25 well; is that correct?

~~FRIEND - CROSS~~

1 A. Yes, ma'am.

2 Q. All right. And did you draw your weapon at that point?

3 A. No, ma'am.

4 Q. So the group, again, do they turn to look at you?

5 A. No. I actually walked -- they were like -- I guess, you
6 know -- because I pulled into the parking lot. They were
7 already facing -- as I get out of the car, they would
8 actually -- if I turn, they were facing to me. So I just
9 walked up as they were facing me, ma'am.

10 Q. All right. And you asked them questions like: Are any of
11 you armed?

12 Right?

13 A. I asked if any of them had any weapons, ma'am.

14 Q. And they said "no"; correct?

15 A. Correct.

16 Q. When I say "they," that included Dante Bailey said, "No, I
17 don't have a weapon on me"; right?

18 A. Yes, ma'am.

19 Q. And you -- at that point there was some backup coming; is
20 that correct?

21 A. Yes, ma'am.

22 Q. Now, you also asked if you could pat them down; right?

23 A. Yes, ma'am.

24 Q. And that means to touch their body to determine whether
25 you can feel a weapon; right?

~~FRIEND - CROSS~~

1 A. Yes, ma'am.

2 Q. And did you do that with these individuals?

3 A. Yes, ma'am.

4 Q. Did you ask them to sit on the -- I guess it would be the
5 sidewalk.

6 A. The ground, yes, ma'am.

7 Q. Was it ground?

8 A. Yes, ma'am.

9 Q. And they all did what you said; right?

10 A. Correct.

11 Q. Dante Bailey let you pat him down; right?

12 A. Yes.

13 Q. And there was no weapon on him; right?

14 A. Correct.

15 Q. Now, at some point you went over and retrieved or took
16 this gun in the wheel well; right?

17 A. Yes, ma'am.

18 Q. Now, you mentioned to us you had no probable cause to
19 arrest anyone for the gun; right?

20 A. Yes, ma'am.

21 Q. That means you had no indication that that gun was in the
22 possession of or owned by any one of the people in the group;
23 right?

24 A. At that time, yes, ma'am. Correct.

25 Q. All right. So at that time you had no indication that

~~FRIEND - CROSS~~

1 that gun had anything to do with Dante Bailey; right?

2 A. Correct.

3 Q. And then you and Officer McNish shine a light into a
4 Lexus; right?

5 A. Yes, ma'am.

6 Q. Now, where was the Lexus parked in relation to the
7 Chrysler?

8 A. It was -- if I had to take a wild guess for, you know,
9 purposes of the feet, I would say probably about like 20,
10 25 feet to the right of the Chrysler, meaning if I'm looking at
11 the -- all five men, it's down to the right. So it's a
12 little -- it's down from where they were, down from the
13 Chrysler, ma'am.

14 Q. And what drew your attention to it was it was running; is
15 that correct?

16 A. Yes, ma'am.

17 Q. And you said "a wild guess." So it could have been more
18 than 25 feet; right?

19 A. Well, I'm saying roughly about that. But I don't want to
20 sit here and say it was 20, but it was 22. So a rough
21 estimate, about 20 feet, ma'am.

22 Q. All right. But not close. Let's put it that way.

23 A. No, ma'am.

24 Q. And so you walked over and you looked in there and you saw
25 a baggie in the front and a baggie in the back; right?

~~FRIEND - CROSS~~

1 A. Yes, ma'am.

2 Q. Okay. "In the back" meaning console area; correct?

3 A. Yes, ma'am.

4 Q. Okay. And at that point you indicated you arrested
5 Dante Bailey for the marijuana; right?

6 A. Yes, ma'am.

7 Q. And there was a scale; correct?

8 A. Yes, ma'am.

9 Q. Okay. And it was -- and it was his car, you said. So you
10 thought, okay, I've got the right person; right?

11 A. Yes, ma'am.

12 Q. And he says to someone you later learned to be Ivan Potts
13 something to the effect of, Ivan, take your charge; right?

14 A. Yes, ma'am.

15 Q. All right. And, you know, of course, we already know he
16 didn't have a weapon, so he wasn't threatening Ivan Potts with
17 a weapon to get him to take a charge; right?

18 A. Correct.

19 Q. And you wanted to test whether Ivan Potts, who had owned
20 up to the marijuana, was actually telling the truth; right?

21 A. Yes, ma'am.

22 Q. And the way you did that was to say, "Where was it?
23 Right?

24 A. Yes, ma'am.

25 Q. And he correctly told you that there was some marijuana in

~~FRIEND - CROSS~~

1 the back console area of the car; right?

2 A. He said it was in the back, ma'am.

3 Q. Right. And there was some in the back; right?

4 A. But there was also additional in the front and a scale in
5 the back, ma'am.

6 Q. Right. Was the scale in the front or the back?

7 A. I believe it was in the rear, ma'am.

8 Q. All right. So in the back is a scale and some marijuana,
9 and Ivan Potts tells you it's there; right?

10 A. Yes, ma'am.

11 Q. So he's indicating that that's his marijuana; correct?

12 A. He's stating that there was marijuana in the rear; but,
13 you know, when they come in -- if you would have said that, you
14 know, all the marijuana, then it would have been a different
15 story. Then I would have believed him.

16 But him leaving out the rest of it, I kind of like got the
17 indication that he was just there to take the charge for
18 Mr. Bailey.

19 Q. Okay. Or he was there to own up to his marijuana and the
20 front marijuana was Mr. Bailey's; right?

21 A. That ain't what I believed at that time, ma'am.

22 Q. And I'm asking you right now: Ivan Potts says, "My stuff
23 is in the back"; right?

24 A. He didn't say his stuff, ma'am. He advised me that there
25 was some marijuana in the rear, and that's it. Nowhere else in

~~FRIEND - CROSS~~

1 the car.

2 Q. And you still arrested Dante Bailey; right?

3 A. Yes, ma'am.

4 Q. Now, you were shown a couple of transcripts, and we heard
5 calls when you testified before the lunch hour; remember those?

6 A. Yes, ma'am.

7 Q. All right. Did you prepare the transcripts for those
8 calls?

9 A. No, ma'am.

10 Q. The first time you saw those transcripts of those calls
11 was when, this morning?

12 A. No, ma'am.

13 Q. What day?

14 A. I don't know the exact date, ma'am.

15 Q. Okay. But in preparation for this case; right?

16 A. Yes, ma'am.

17 Q. Okay. Were you involved in listening to the call and
18 deciphering what the words were to put on a transcript?

19 A. No, ma'am.

20 Q. And you were not asked to, for instance, identify at the
21 top of the transcript -- remember you -- well, let me strike
22 that and go back.

23 Earlier you were asked to read the names at the top of the
24 transcript identifying whose voices they were. Remember that?

25 A. Yes, ma'am.

~~FRIEND - CROSS~~

1 Q. And I think they may have even been highlighted for you?

2 A. Yes, ma'am.

3 Q. Okay. So you read what you saw; right?

4 A. Yes, ma'am.

5 Q. But you didn't place those names on any transcript; right?

6 A. Correct, ma'am.

7 Q. Okay. And so you don't know, for instance, every person
8 that was talking in that tape; right?

9 A. Correct.

10 Q. Okay. Now, I'm going to ask you a couple of things about
11 them.

12 Session No. 912, which is Exhibit B-912-T -- do you have a
13 transcript book in front of you, sir?

14 A. No, ma'am, I don't.

15 MS. WHALEN: This would be Page 282 of the
16 transcripts.

17 THE COURT: That's 282 of the wire calls?

18 MS. WHALEN: Of the wire calls. Thank you,
19 Your Honor.

20 BY MS. WHALEN:

21 Q. Please just let me know if you can't read it from here,
22 and we'll do it another way.

23 A. Yes, ma'am.

24 Q. All right. Now, we've talked about you didn't prepare
25 this. You were not identifying voices on this; right?

~~FRIEND - CROSS~~

1 **A.** Correct.

2 **Q.** But farther down -- let's see. I'll try to go into it.

3 Do you see where somebody else has written "Spence"
4 (indicating)?

5 **A.** Yes, ma'am.

6 **Q.** All right. And that's -- that is written [reading]:
7 Jakir ran past the car and threw the joint; right?

8 **A.** Yes, ma'am.

9 **Q.** And do you remember hearing the response to that by,
10 supposedly, Mr. Bailey that was, What the "F" word?

11 Do you remember that from the tape?

12 **A.** Yes, ma'am.

13 **Q.** Okay. And there was a question mark in his inflection,
14 right, from the tape?

15 **A.** On the paper, yes, ma'am, there's a question mark.

16 **Q.** Do you remember the question -- the questioning nature of
17 the, What the "F" word?

18 **A.** Yes, ma'am.

19 **Q.** Now, further on in that particular call, I'm going to ask
20 you if you remember that the person that the transcript says
21 was Mr. Bailey talks about how -- I think it was friend or
22 friendly, and you were asked, "Do you think they're talking
23 about you?"

24 Do you remember that?

25 **A.** Yes, ma'am.

~~FRIEND - CROSS~~

1 Q. Okay. And the response by the person on the call was
2 basically, He wanted me to give up Dwight Jenkins on a silver
3 platter; remember that?

4 A. Yes, ma'am.

5 Q. Okay. And so the content of that call is like, Hey, the
6 police wanted me to trade information with them; right?

7 A. That's the call, yes, ma'am.

8 Q. And that's not unusual, from your experience as a
9 detective or a sergeant out there, is that sometimes you do
10 trade information with people on the street; right?

11 A. Yes, ma'am.

12 Q. Okay. And then later on in the call, do you remember
13 there being a reference to the gang squad?

14 THE COURT: I'm sorry. The what?

15 MS. WHALEN: The gang squad.

16 BY MS. WHALEN:

17 Q. Do you remember that in the call?

18 A. No, ma'am.

19 Q. Okay. I'm going to also show you another place.

20 MS. WHALEN: I'm going to flip to Page 288.

21 BY MS. WHALEN:

22 Q. Can you see that okay, Sergeant?

23 A. Yes, ma'am, I can.

24 Q. All right. So where I've kind of marked, do you remember
25 the conversation is they're talking about whether there was a

~~FRIEND - CROSS~~

1 gun that was seized?

2 **A.** Yes, ma'am.

3 **Q.** All right. And that person by the name of Spence on the
4 transcript says [reading]: Man, that probably -- that probably
5 was they gun, yo. You know, sometimes they play like that.

6 Right?

7 **A.** Yes, ma'am.

8 **Q.** And that means, Hey, sometimes they drop a gun or leave a
9 gun on the scene, plant a gun; right?

10 **MS. HOFFMAN:** Objection.

11 **THE COURT:** Overruled.

12 **THE WITNESS:** I don't know if he's referring to that.
13 I mean, I don't know of any nature of that doing [sic], ma'am.

14 **BY MS. WHALEN:**

15 **Q.** Well, I guess maybe that -- then that's because you really
16 don't know -- I mean, you didn't have any involvement in this
17 transcript; right?

18 **A.** Correct, ma'am.

19 **Q.** Okay. Then on here it says, according to this [reading]:
20 Bailey: No. They got the gun off the tire, yo, and put it in
21 the plastic bag.

22 In other words, Bailey is responding: No. There was a
23 gun there. I saw them. They put it in the plastic bag.

24 Is that a fair interpretation?

25 **A.** Yes, ma'am.

~~FRIEND - CROSS~~

1 Q. Okay. And then Bailey is also saying, I'm talking -- down
2 farther where there's a note [reading]: I'm talking about on
3 the tire right behind us.

4 Okay?

5 A. Yes, ma'am.

6 Q. Now, you remember the phone call as it goes on, this
7 person by the name of Bailey, at least on the transcript, is
8 basically saying, This is what happened. I saw it. I saw it.

9 Right?

10 A. I don't -- I don't remember exacts, ma'am.

11 Q. Do you know who Jakir is?

12 A. No, ma'am.

13 Q. All right. And in reference to the earlier point, Jakir
14 threw the gun there?

15 A. I don't know -- I don't know who he is, ma'am.

16 MS. WHALEN: Court's indulgence.

17 Thank you, Sergeant.

18 THE COURT: Mr. Sardelli?

19 MR. SARDELLI: No questions for Mr. Banks.

20 MR. TRAINOR: I have no questions.

21 MS. AMATO: No. Thank you, Your Honor.

22 MR. HAZLEHURST: Nothing on behalf of Mr. Davis,
23 Your Honor.

24 MR. DAVIS: Nothing on behalf of Mr. Frazier.

25 THE COURT: Thank you.

~~DIAZ - DIRECT~~

Any redirect?

MS. HOFFMAN: No, Your Honor.

THE COURT: Thank you, sir. You are excused.

(Witness excused.)

THE COURT: Does the Government have another witness?

MS. PERRY: Yes, Your Honor. The Government calls
Detective Juan Diaz.

THE CLERK: Please raise your right hand.

DETECTIVE JUAN DIAZ, GOVERNMENT'S WITNESS, SWORN.

THE CLERK: Please be seated.

THE WITNESS: Thank you.

THE CLERK: Please speak directly into the microphone.
State and spell your full name for the record, please.

THE WITNESS: My name is Detective Juan Diaz. My
first name is spelled J-U-A-N, Diaz, D, as in David, I-A-Z, as
in zebra.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. PERRY:

Q. Good afternoon.

A. Good afternoon, counselor.

Q. Where do you work?

A. I work for the Baltimore City Homicide Unit.

Q. And how long have you worked with the Baltimore Police
Department?

~~DIAZ~~ - ~~DIRECT~~

1 **A.** 18 years.

2 **Q.** And how long have you been with the Homicide Unit?

3 **A.** 15.

4 **Q.** What is your title with the Homicide Unit?

5 **A.** Homicide detective.

6 **Q.** And over the course of your 15 years as a Homicide
7 detective, approximately how many homicides have you
8 investigated as the lead or primary detective?

9 **A.** I would say approximately 80.

10 **Q.** Have you assisted in other homicide investigations over
11 your 15 years?

12 **A.** Yes, ma'am.

13 **Q.** Approximately how many?

14 **A.** Hundreds.

15 **Q.** Detective, I want to direct your attention to
16 November 22nd of 2012. Were you assigned to a homicide that
17 occurred on that particular day?

18 **A.** Yes, ma'am.

19 **Q.** What day was November 22nd of 2012?

20 **A.** It was Thanksgiving.

21 **Q.** Can you tell us how you got assigned this particular
22 homicide.

23 **A.** Yeah. I was scheduled to work 2:00 p.m. to 11:00 p.m.
24 And I was working. I was the up person during that rotation.

25 In the Homicide Unit, we work -- when you are the up

~~DIAZ - DIRECT~~

1 person, anything that comes in as a possible homicide or as a
2 homicide, you are the person who's going to be assigned as the
3 primary.

4 And that day when that call came into our office, I was
5 assigned to that case.

6 Q. Approximately what time did you get the call that day?

7 A. We received our call around 2:43 p.m.

8 Q. And did you learn the location of the homicide?

9 A. Yes, ma'am.

10 Q. What was that location?

11 A. It was right at the intersection of Forest Park and
12 Windsor Mill Road, 5200 block.

13 Q. Did you respond to that location, the 5200 block of
14 Windsor Mill Road?

15 A. Yes, ma'am.

16 Q. Are you familiar with that particular location?

17 A. Yes, ma'am.

18 Q. Can you tell us about that location generally.

19 A. The area is almost at the -- almost in the border with the
20 county line, Baltimore County line. You have a BP gas station
21 right at the intersection.

22 Also, you have a baseball field right across the gas
23 station. You have a school nearby. It's a busy intersection,
24 a lot of vehicle traffic.

25 And, also, the gas station is a -- is also busy in terms

~~DIAZ - DIRECT~~

1 of a lot of activity that's going on in that gas station.

2 Q. Now, I'm going to show you what's already in evidence as
3 MAP-34.

4 Do you recognize this exhibit?

5 A. Yes, ma'am.

6 Q. And is this the location that you responded to on
7 November 22nd?

8 A. Yes, ma'am.

9 Q. Can you tell us where in this particular intersection in
10 the 5200 block you learned the homicide had occurred.

11 A. The homicide took place right on the baseball field, which
12 is next to the North Forest Park, the closest to
13 Forest Park Avenue.

14 Q. And if you could just -- you can use your finger to
15 indicate on the map the location you're talking about.

16 A. Talking right here (indicating).

17 Q. Now, you mentioned that you arrived at this location after
18 receiving a call that a homicide had occurred.

19 Did you later learn that there had been calls made to
20 9-1-1?

21 A. Yes, ma'am; multiple calls.

22 Q. I'm going to approach and show you what's been marked as
23 Government's Exhibit CAD-1, A through C.

24 MS. PERRY: Permission to approach?

25 THE COURT: Yes.

~~DIAZ - DIRECT~~

1 **BY MS. PERRY:**

2 **Q.** (Hanging.)

3 Detective, looking at this disc, is this a disc containing
4 certified records kept by the Baltimore Police Department of
5 9-1-1 calls?

6 **A.** Yes, ma'am.

7 **Q.** And have you -- are you aware that these 9-1-1 calls were
8 made at or about the time of the homicide you were
9 investigating?

10 **A.** Yes, ma'am.

11 **Q.** Do you know approximately what time the first 9-1-1 call
12 came in?

13 **A.** I -- I don't recall that.

14 **Q.** But would it have been sometime before you got the call at
15 around 2:45?

16 **A.** Absolutely.

17 **Q.** So I want to play for you now the first call contained on
18 Government's Exhibit CAD-1. This is CAD-1-A. And there's a
19 transcript of the call. It's labeled CAD-1-AT, and it's
20 contained in the 9-1-1 call tab of the transcript binders
21 beginning on Page 1.

22 (Audio was played but not reported.)

23 **MS. PERRY:** I'm now going to play CAD-1-B. The
24 transcript of this is contained on the next page, Page 3 of the
25 transcript binder.

~~DIAZ - DIRECT~~

(Audio was played but not reported.)

MS. PERRY: Finally, turning to CAD-1-C, the transcript of which is on Page 4 of your transcript binders.

(Audio was played but not reported.)

BY MS. PERRY:

Q. Detective Diaz, approximately what time did you arrive to the 5200 block of Windsor Mill?

A. We received the call around 2:43, so I would say maybe between half an hour, 40 minutes.

Q. And when you arrived, where did you go?

A. I went straight to my crime scene right -- located on the baseball field.

Q. And when you got to that location, what, if anything, did you observe?

A. Well, you know, first, the officers, first-responding officers, they -- they already -- the area is, you know, secure. And I was directed to -- to the area where the victim fell after he was shot, which is near a bench located in the baseball field.

Q. And what led you to believe that that was the area where the victim fell?

A. Well, during the assessment of the crime scene, clearly there was evidence there, and that's where the -- the shooting took place. And one thing is that we observed ballistic evidence right there next to the bench, near the bench area,

~~DIAZ - DIRECT~~

1 and other items there that we observed and the other officer.

2 As the primary investigator, when you're going to make an
3 assessment of the crime scene, you know, you try to collect as
4 much evidence as you can, in your best judgment, that it
5 belongs to your crime scene.

6 Q. And so you said that there was ballistic evidence there.
7 Specifically, were there shell casings in that area?

8 A. Yes, ma'am.

9 Q. Now, I believe you mentioned that you went to the location
10 where the victim fell. Was the victim still at the location
11 when you arrived?

12 A. When I arrived -- when I responded to the scene, when I
13 arrived to the scene, no, he wasn't.

14 Q. Did you later learn the identity of the victim?

15 A. Yes, ma'am.

16 Q. Who was that?

17 A. His name was Antoine Ellis.

18 Q. I'm going to show you Government's Exhibit IND-28.

19 Do you recognize this person?

20 A. Yes, ma'am.

21 Q. Who is it?

22 A. That's the deceased, the victim.

23 Q. And did you learn if Mr. Ellis went by a nickname?

24 A. Yes, ma'am.

25 Q. What was that?

~~DIAZ - DIRECT~~

1 A. Poppy [sic].

2 Q. Detective, did you attend the autopsy of Mr. Ellis?

3 A. Yes, ma'am.

4 Q. And can you tell us the nature of the injuries to
5 Mr. Ellis, just generally.

6 A. The victim received multiple gunshots to his body and
7 torso. According to the Medical Examiner, they counted, you
8 know, approximately 13 gunshot wounds.

9 Q. Were photos taken of the crime scene?

10 A. Yes, ma'am.

11 Q. I want to show you, first, what is marked as
12 Government's Exhibit CS-1-1.

13 Can you tell us what we're looking at here.

14 A. Yes, ma'am. Right here (indicating), we're looking at
15 Forest Park. And straight down between these two trees
16 (indicating), you can see the bench and the baseball field,
17 right in this location right there (indicating).

18 Q. Indicating right in the center of the photo where we can
19 see a bench?

20 A. Yes, ma'am.

21 Q. And where was this photograph taken from?

22 A. So I believe it was taken from standing on Forest Park,
23 almost in front of the -- on the corner of Forest Park and
24 Windsor Mill.

25 Q. I'm going to show you CS-1-2. Can you first tell us what

~~DIAZ - DIRECT~~

1 we're looking at here.

2 **A.** Yes. Right here you can -- it's a photo of the bench and
3 the baseball field and the fence.

4 **Q.** And using CS-1-2, can you tell us the location that the
5 homicide occurred.

6 **A.** Took place in this area right there (indicating).

7 **Q.** Indicating right near the bench in the center of the
8 photo?

9 **A.** Yes, ma'am.

10 **Q.** And from this perspective, which street is this photograph
11 looking towards?

12 **A.** So on the left side of the photo, where you see the gas
13 station right here (indicating), this is Forest Park. And
14 right in the other side, straight down right there
15 (indicating), that's Windsor Mills.

16 **Q.** Turning your attention to CS-1-3, can you tell us what
17 we're looking at here.

18 **A.** Here you see the crime scene. You see the bench. And you
19 can clearly see the devices that we use to mark evidence on the
20 ground by our crime lab technicians where it indicates where
21 evidence was located and recovered.

22 **Q.** And so just to be clear, the little yellow squares we're
23 looking at in this photograph are markers of some kind?

24 **A.** Yes.

25 **Q.** Now, was evidence recovered? Did you actually recover

~~DIAZ - DIRECT~~

1 items from this particular location?

2 **A.** The crime lab technician did.

3 **Q.** I'm going to show you, first, what is marked as CS-1-4.

4 What are we looking at here?

5 **A.** Here you can see the markers a little bit closer. The
6 markers are numbers on here, which indicates ballistic
7 evidence. In this case it was casings.

8 **Q.** And were you able to determine what kind of casings those
9 were?

10 **A.** Yes, ma'am.

11 **Q.** What kind of casings were they?

12 **A.** It was 9-millimeter casings.

13 **Q.** Now, looking at CS-1-5, what are we looking at here?

14 **A.** Here it says -- I believe it is -- I don't know if that's
15 a 1 or that's an I. That depends.

16 But if it's a 1, you can see the casing right here.

17 **MS. AMATO:** Objection; speculative.

18 **THE COURT:** Overruled.

19 **THE WITNESS:** If it's a 1, you can see right here
20 between that square, there's a casing right here on the floor,
21 on the ground.

22 **BY MS. PERRY:**

23 **Q.** And could you just circle it with your finger what you're
24 describing.

25 **A.** (Witness complies.)

~~DIAZ - DIRECT~~

1 Q. Thank you.

2 Turning now to CS-1-6, can you tell us what we're looking
3 at here.

4 A. Yeah. This is Marker No. 2, and you can see a casing
5 right there (indicating).

6 Q. CS-1-7, can you describe what we're looking at here.

7 A. Yeah. This is a Marker No. 3, and there's a casing right
8 there (indicating).

9 Q. CS-1-8, can you tell us what we're looking at here.

10 A. This is Marker No. 4, and you can see another casing in
11 this area (indicating).

12 Q. CS-1-9, what are we looking at here, Detective.

13 A. This is Marker No. 5, another casing that was located and
14 recovered.

15 Q. Turning to CS-1-10, what are we looking at here?

16 A. It is Marker No. 6, and you can see a casing right here
17 (indicating).

18 Q. CS-1-11, can you tell us what we're looking at here.

19 A. Yes, ma'am. This is Marker No. 7, and you can see a
20 casing right there (indicating).

21 Q. CS-1-12, what are we looking at here?

22 A. This is Marker No. 8, and you can see the casing right
23 there (indicating).

24 Q. And finally, CS-1-13, can you tell us what we're looking
25 at here.

~~DIAZ - DIRECT~~

1 **A.** Yes, ma'am. This is Marker No. 9.

2 **Q.** And would Marker No. 9 have indicated ballistic evidence
3 as well?

4 **A.** It should be evidence as well, yes, ma'am.

5 **Q.** Now, Detective Diaz, did you return to the crime scene
6 after November 22nd of 2012?

7 **A.** Yes, ma'am.

8 **Q.** Why did you return to the crime scene after that day?

9 **A.** You know, as an investigator, when you go -- you want to
10 return back to the crime scene, take a look, examine it again.
11 Maybe you missed something. Maybe you can find additional
12 evidence.

13 **Q.** And when you returned, was anything additional recovered?

14 **A.** Yes, ma'am.

15 **Q.** What did you recover?

16 **A.** Another casing, 9-millimeter casing.

17 **Q.** I'm going to show you CS-1-14.

18 Can you tell us what we're looking at in CS-1-14.

19 **A.** Yeah. You can see the casing right there (indicating).

20 **Q.** Detective, in addition to looking at the physical evidence
21 in the case, did you attempt to obtain any surveillance or
22 determine whether or not there were surveillance cameras in the
23 area?

24 **A.** Yeah. During the course of the investigation, we --
25 there's -- we respond -- I responded to the gas station, BP gas

~~DIAZ - DIRECT~~

1 station. And, in fact, they have exterior surveillance
2 cameras, and we actually reviewed the cameras from the gas
3 station.

4 **Q.** And did you actually obtain a copy of the video from the
5 gas station?

6 **A.** Yes, ma'am.

7 **Q.** And after you obtained and reviewed the video from the gas
8 station, did you determine or attempt to determine if there was
9 video anywhere else?

10 **A.** Yes, ma'am. Once we -- during the course of the
11 investigation, we also went to the community that's next to the
12 baseball field, which was the direction where the suspect,
13 after the shooting, he ran to. And that's the
14 Gwynnbrook Apartments.

15 And actually, the first building right there in the
16 community is the leasing office, and actually the leasing
17 office also have exterior cameras.

18 **Q.** And so were you able to watch and obtain surveillance
19 video from that location?

20 **A.** Yes, ma'am.

21 **Q.** Okay. I'm going to show you a disc which is marked as
22 SF-3, Government's Exhibit SF-3 (handing).

23 Detective, does this contain a compilation of the
24 surveillance footages that you just described?

25 **A.** Yes, ma'am.

~~DIAZ - DIRECT~~

1 Q. And did you have an opportunity to review the footage
2 that's on SF-3 before coming to court today?

3 A. Yes, ma'am.

4 Q. And is it a fair and accurate compilation of the footage?

5 A. Yes, ma'am.

6 Q. So before I turn to playing the footage, I just want to
7 ask a few more questions. And I want to look back at MAP-34.

8 Now, I believe you described obtaining footage from one of
9 the other locations. Can you tell us where that location was
10 indicated on -- using MAP-34.

11 A. Okay. So you can see the BP gas station right here
12 (indicating), in this area here (indicating). And then you can
13 see the Gwynnbrook Townhomes right here (indicating). And the
14 first building, that's where the leasing office is located,
15 right there (indicating). And that's where we recovered the
16 exterior footages, surveillance footages.

17 Q. I'm going to show you Government's Exhibit CS-1-15.

18 Can you tell us what we're looking at here.

19 A. Yeah. Here we're looking at the crime scene from -- and
20 we are looking at -- on the right side is Forest Park
21 (indicating) and then on the left side right here (indicating),
22 this is in the direction towards the townhomes, the
23 Gwynnbrook Apartments.

24 Q. And just to be clear, the location you're indicating is
25 towards the sort of top left of the photograph?

~~DIAZ - DIRECT~~

1 **A.** Yes, ma'am.

2 **Q.** Okay. And finally, I'm going to show you
3 Government's Exhibit MAP-4.

4 Can you tell us what we're looking at here.

5 **A.** Yes, ma'am. So right here, this is the leasing office
6 (indicating). This first building on the middle of the
7 picture, this is the leasing office of the Gwynnbrook Apartment
8 Community Townhomes.

9 **Q.** And using MAP-4, can you indicate where the BP gas station
10 is.

11 **A.** Yes. The BP gas station, you can clearly see it right
12 there (indicating). And right in the middle right here
13 (indicating), you can see the baseball field. And if you look
14 right between the -- those trees, right in the middle in this
15 area (indicating), you can see the fence, chain link fence and
16 the bench location.

17 **Q.** So a couple more questions before I turn to the video
18 itself. Detective, did you receive property from the victim
19 from this day, from November 22nd of 2012?

20 **A.** Once the victim was transported to Sinai Hospital and
21 pronounced deceased, yes, one of the officers received clothing
22 and recovered that clothing from the victim, and it was
23 submitted to evidence control.

24 **Q.** And were you able to determine what clothing the victim
25 was wearing on that day?

~~DIAZ - DIRECT~~

1 A. Yes, ma'am.

2 Q. Can you describe what clothing the victim was wearing.

3 A. He was wearing some blue jeans. He was wearing like a
4 black jacket, some type of light-colored shirt, and a white
5 knit cap (indicating) on his head.

6 Q. So now I do want to turn to SF-3.

7 (Video played.)

8 **BY MS. PERRY:**

9 Q. And I'm going to just pause it here at the very beginning
10 for a second and start by asking you: Where -- what are we
11 looking at here?

12 A. So this is an exterior camera from the BP gas station,
13 clearly looking at the pumps right here (indicating).

14 This individual right in the middle with the big images
15 with the back towards the camera with the knit cap, that's
16 Antoine Ellis, the victim.

17 Q. And where is the baseball field in relation to what we're
18 looking at here?

19 A. So the baseball field is -- if you look at the -- it's
20 right here in this area, this green area just above the gas
21 pump (indicating).

22 Q. So now I'm going to play about five minutes of the video.

23 Oh, before I do that, let me ask you one other question.

24 I believe you testified earlier that you got the call
25 about the homicide at about 2:45 p.m.

~~DIAZ - DIRECT~~

1 Looking here at the timestamp, can you tell us what it
2 says.

3 **A.** Yeah. It says -- first is the date, 11/22 of 2012. The
4 time says 2:50:40 p.m.

5 **Q.** And what can you tell us about that timestamp.

6 **A.** During the investigation, when we reviewed the footages,
7 it's clearly that the time on the video was one hour fast.

8 **Q.** So I'm going to play about five minutes of this video.

9 **A.** Yes, ma'am.

10 (Video played.)

11 **BY MS. PERRY:**

12 **Q.** I'm going to pause it here.

13 Detective, were you able to see where the individual in
14 the white hat went?

15 **A.** Yes.

16 **Q.** Where did he go?

17 **A.** He left. He walked towards Forest Park. Actually, you
18 can see it right there (indicating), that black dot.

19 **Q.** As sort of walking out of view of the camera?

20 **A.** Yes.

21 **Q.** So I'm going to jump ahead now to about 11 minutes into
22 the video, 11 minutes and 25 seconds.

23 (Video played.)

24 **BY MS. PERRY:**

25 **Q.** And I want to draw your attention to the same area of the

~~DIAZ - DIRECT~~

1 screen, sort of the top right corner.

2 A. Yes, ma'am.

3 Q. And do you see two individuals walking towards the camera
4 here?

5 A. Yes, ma'am.

6 Q. And can you just tell us what the individual on the
7 left -- pausing here for a moment -- the individual on the left
8 of the screen, does he appear to be wearing a white cap?

9 A. Yes, ma'am.

10 Q. And what does the individual on the right appear to be
11 wearing?

12 A. A gray hoodie, gray pants.

13 Q. I'm going to play it for a couple more minutes.

14 (Video played.)

15 BY MS. PERRY:

16 Q. Detective, can you see the two individuals at the very top
17 of the screen?

18 A. Yes, ma'am.

19 Q. And, again, the person on the left in the white hat, who
20 is that?

21 A. That's the victim, Antoine Ellis.

22 Q. And -- thank you.

23 And in what direction are they traveling?

24 A. They're walking toward -- they just crossed Forest Park,
25 and they're right now walking on the field towards the baseball

~~DIAZ - DIRECT~~

field.

Q. I'm going to pause it here and jump ahead to about 20 minutes into the video.

(Video played.)

BY MS. PERRY:

Q. And drawing your attention to the individual on the left side of your screen --

A. Yes, ma'am.

Q. Did you see his reaction just then?

A. Yes, ma'am.

Q. And what did you believe his reaction was to?

MR. ENZINNA: Objection, Your Honor.

THE COURT: Sustained.

MS. PERRY: I'm just going to keep playing from here.

BY MS. PERRY:

Q. I'm going to pause here for a second.

What are we looking at here? What area? What direction are we looking in, rather?

A. Right now, this is cameras from the Gwynnbrook Townhomes, right here (indicating). This is the camera located in the front of the leasing office.

Q. Okay. I'm going to play it from here.

(Video played.)

BY MS. PERRY:

Q. Detective, I'm doing to stop the video here and turn back

~~DIAZ - DIRECT~~

1 to MAP-4.

2 The individual who we just observed in the video, can you
3 just describe, using MAP-4, the direction of travel we saw.

4 **A.** Yes, ma'am. So he came from the baseball field area
5 (indicating) towards -- towards the townhomes, the leasing
6 office. He passed right by this area right here (indicating),
7 this area right here (indicating), and then he made a left turn
8 and came across right here (indicating).

9 **Q.** Thank you.

10 Now, I'm going to just turn your attention to SF-3-A.

11 Do you recognize this?

12 **A.** Yes, ma'am. That is the victim, Antoine Ellis.

13 **Q.** And is this a still shot from the video that we just
14 watched?

15 **A.** Yes, ma'am.

16 **Q.** And SF-3-B, again, what are we looking at here?

17 **A.** The victim.

18 **Q.** SF-3-C?

19 **A.** Yes, ma'am.

20 **Q.** Is this a still shot from the video that we just watched?

21 **A.** Yes, ma'am.

22 **Q.** And SF-3-D, is this another still shot of the video?

23 **A.** Yes, ma'am.

24 **Q.** Now, Detective, in the course of your investigation, did
25 you become familiar with an individual by the name of

~~DIAZ - DIRECT~~

1 Dontray Johnson?

2 **A.** Yes, ma'am.

3 **Q.** I'm going to show you IND-53.

4 Do you recognize this person?

5 **A.** Yes, ma'am.

6 **Q.** Who is this?

7 **A.** That is Mr. Johnson.

8 **Q.** And I'm putting him up on the right side of the screen or
9 that Exhibit IND-53 up on the right side of the screen and
10 SF-3-D on the left side of the screen.

11 Now, Detective, were you able to tell if the person in the
12 video was consistent in size and stature with Mr. Johnson?

13 **MR. ENZINNA:** Objection, Your Honor.

14 **THE COURT:** I guess you need to lay a little more
15 foundation.

16 **BY MS. PERRY:**

17 **Q.** Detective, over the course of your investigation, did you
18 become familiar with Mr. Johnson's physical characteristics?

19 **A.** Yes, ma'am.

20 **Q.** And were you aware of how he appeared?

21 **A.** Yes, ma'am.

22 **Q.** And based on that, would you -- did you form an opinion as
23 to whether or not the individual in SF-3-D was similar in size
24 and stature with Mr. Johnson?

25 **A.** Yes, ma'am.

~~DIAZ - DIRECT~~

1 Q. And what was your opinion?

2 A. It was very similar.

3 Q. Now, Detective, you've told us that you've been a Homicide
4 detective with the Baltimore Police for about 15 years.

5 Does the Baltimore Police Department keep statistics on
6 how many homicides occur each year?

7 A. Yes, ma'am.

8 Q. And are those numbers sometimes reported in the media?

9 A. Yes.

10 Q. Are you aware of whether any such reporting occurred close
11 in time to this homicide?

12 A. Yes.

13 Q. What can you tell us was reported.

14 A. In the media that we were 198 homicides at the time.

15 Q. Now, I want to show you what has already come into
16 evidence as SM-2 as an excerpt from Dontray Johnson's Facebook
17 page.

18 MR. ENZINNA: Your Honor, we have an objection to
19 this. May we approach?

20 THE COURT: All right.

21 (Bench conference on the record:

22 MR. ENZINNA: Your Honor, I believe where this is
23 going is this is -- this is part of the -- Mr. Johnson's
24 Facebook page where he -- you see the post here? It says, "198
25 and Rising"?

~~DIAZ - DIRECT~~

THE COURT: Right.

MR. ENZINNA: On that date, on November 22nd, 2012.

THE COURT: Right.

MR. ENZINNA: I don't know what this witness is going to say about this. I don't believe this witness was involved in compiling these exhibits or -- I mean, I believe he's going to be asked to offer an opinion as to whether or not this refers to the number of murders in Baltimore at that time, and I don't think he's qualified to --

THE COURT: I don't know whether he would be asked that opinion. I would assume not.

MS. PERRY: I'm going to simply ask him to read it.

MR. ENZINNA: Will you ask him further posts in time?

MS. PERRY: Yes. I simply plan to ask him to read --

THE COURT: To read it. You're not going to ask him what it refers to.

MS. PERRY: Correct.

THE COURT: It will be for the jury.

Thank you, sir.

MR. ENZINNA: Thank you.

THE COURT: Okay.)

(Bench conference concluded.)

BY MS. PERRY:

Q. So I believe I was telling you I was going to show you SM-2, which is -- has already come into evidence as an excerpt

~~DIAZ - DIRECT~~

1 of the Facebook business records of Dontray Johnson, and I'm
2 going to turn to Page 2, first, of SM-2 and direct your
3 attention here just to the red box in the center of your
4 screen.

5 And starting here at the bottom, can you tell us what the
6 date is next to the word "posted."

7 **A.** It says [reading]: 2012-11-22nd. In other words,
8 November 22nd, 2012.

9 **Q.** And was that the date of the homicide you were
10 investigating?

11 **A.** Yes, ma'am.

12 **Q.** And what does it say next to status?

13 **A.** [Reading]: 198 and rising -- rising.

14 **Q.** Now, looking just above that, can you tell us the date of
15 the post above that.

16 **A.** November 23rd, 2012.

17 **Q.** And can you just read the status for us.

18 **A.** It says [reading]: Time to go. Batman has work to do.
19 The city has to be cleaned up from it bullshitter and
20 boots-lickers. I love Gotham City. Ckooock, doo, doo, doo,
21 hi, hi, hi, hi, dummies, love you, bro.

22 **Q.** Now, I'm going to turn your attention again to SM-2. This
23 time I'm going to put up on the left Page 18, and on the right
24 I'm going to put up Page 19 of SM-2.

25 And I want to start by drawing your attention on Page 18

~~DIAZ - DIRECT~~

1 down here. Can you tell us the date that this top thing is
2 posted.

3 A. November 24th, 2012.

4 Q. And can you read the status.

5 A. It says [reading]: Nigga told me I am one of the loyal --
6 loyalist young nigga. He knows, then -- he knows, then, gave
7 me a couple of hunnids. I said, What is this for? He said,
8 For being you. Started to give me -- started to give it back,
9 but I ain't want to be rude.

10 Q. And then looking over here to Page 19 at the top, was
11 there a post by user Dante Great One?

12 A. Yes, ma'am.

13 Q. And what was the text?

14 A. [Reading]: Oh, yeah.

15 Q. And was there another post by user Gambino.

16 A. Yes, ma'am.

17 Q. And what was that text?

18 A. [Reading]: Yeah, I love you, bro.

19 Q. I'm going to turn your attention back to SM-2, Page 20,
20 for just a moment and focus back in on the red box.

21 Now, you read the top status and the bottom status. Is
22 there text in the middle of the screen here under "User,
23 Tone Hoodstar Hawkins"?

24 A. Yes, ma'am.

25 Q. And what does that text say?

~~DIAZ~~ - ~~CROSS~~

A. [Reading]: What mobbin', big brova?

MS. PERRY: Thank you, Detective.

Court's indulgence.

Nothing further. Thank you.

THE COURT: All right. Thank you.

Mr. Enzinna.

CROSS-EXAMINATION

BY MR. ENZINNA:

Q. Good afternoon, Detective.

A. Good afternoon, counselor.

Q. Let me start where we left -- where you left off on this page of SM-2. This is the post 11/23/2012 at 36:50 UTC.

Do you see that?

A. Yes, sir.

Q. What is UTC?

A. I don't know, sir.

Q. Is 36:50 the time?

A. Could be 12 -- 12:00 a.m., :36 a.m.

Q. Okay. Now, you were asked about this comment in the middle here, Tone Hoodstar Hawkins.

Who is that?

A. I don't know, sir.

Q. Now, I think you testified earlier that this SM-2 was Mr. Dontray Johnson's Facebook account?

A. I'm sorry, sir?

~~DIAZ - CROSS~~

1 Q. Did you testify earlier that this exhibit, SM-2, is
2 Dontray Johnson's Facebook account?

3 A. Yes, sir.

4 Q. Okay.

5 A. Known as Gambino, yeah.

6 Q. So when the account says "posted," that means it's
7 something that the user is putting up on the account; correct?

8 A. Yes, sir.

9 Q. So those would be by Mr. Johnson; correct?

10 A. Yes, sir.

11 Q. All right. Now, you were also showed two pages earlier,
12 Page 19, right here, right, of the exhibit?

13 Do you remember that?

14 A. Yeah.

15 Q. And you were showed Page 18 of the exhibit; correct?

16 A. Yes, sir.

17 Q. Now, Page 18, if you look up here in the corner, is
18 Page 604 (indicating); correct?

19 A. Yes, sir.

20 Q. And Page 19, up here in the corner is Page 605
21 (indicating); correct?

22 A. Yes, sir.

23 Q. And now Page 20, Page 607 (indicating); correct?

24 A. Yes, sir.

25 Q. So that means Page 606 is missing; correct?

~~DIAZ~~ - ~~CROSS~~

1 **A.** I don't -- it wasn't showed to me.

2 **Q.** Well, if 607 is 20 and 605 is 19, that means 606 is
3 missing; correct?

4 **MS. PERRY:** Objection.

5 **THE COURT:** Sustained.

6 **BY MR. ENZINNA:**

7 **Q.** All right. Now, let's look here on Page 19 of the
8 exhibit. Here is a post at the very top here. It says
9 [reading]: User: Dante Great One. Text: Oh, yeah.

10 Do you see that?

11 **A.** Yes, sir.

12 **Q.** And this was the time of that post, 11/26/12?

13 **A.** I'm sorry. Say that again.

14 **Q.** Is this the date and time of that post, 11/26/12?

15 **A.** 11/26/12.

16 **Q.** 15:32?

17 **A.** 15:32, yes, sir.

18 **Q.** So that's four days after the murder; correct?

19 **A.** I'm sorry?

20 **Q.** Four days after the murder?

21 **A.** Based on this, yes, sir.

22 **Q.** Okay. And you believe that's -- Mr. Bailey posted that?

23 **A.** Yes, sir.

24 **Q.** And he said, "Oh, yeah"?

25 **A.** Yes, sir.

~~DIAZ - CROSS~~

MS. WHALEN: Court's indulgence.

MR. ENZINNA: Excuse me, Your Honor.

THE COURT: Sure.

(Counsel conferred.)

BY MR. ENZINNA:

Q. Detective Diaz, are you familiar with a homicide victim in Baltimore in November 2012 named Donnell Johns [sic]?

A. November 2012?

Q. Yes.

A. What date?

Q. I believe it may have been the 22nd.

MS. PERRY: Objection, Your Honor.

THE COURT: Do you want to approach the bench.

(Bench conference on the record:

THE COURT: Relevance?

MR. ENZINNA: The relevance is that it's my understanding that Mr. Johnson's nephew was killed around the same time and that the one ninety -- "198 and rising" may be referring to the nephew.

THE COURT: Okay.

MS. PERRY: And that's fine, Your Honor, though I don't have any reason to believe that this detective has any knowledge of that or ability to answer.

THE COURT: Right. He may say he knows nothing about it, and then that's the answer. But if that's your basis for

~~DIAZ - CROSS~~

1 asking, that's fine.

2 **MS. WHALEN:** I think you said "Johns" instead of
3 "Johnson.")

4 (Bench conference concluded.)

5 **BY MR. ENZINNA:**

6 **Q.** Detective, I'm sorry. I misspoke. The name of the murder
7 victim was Donnell Johnson.

8 Are you familiar with that victim?

9 **A.** No, sir.

10 **MR. ENZINNA:** All right. Thank you very much.
11 Nothing further, Your Honor.

12 **THE COURT:** All right. Thank you.

13 Any other questions?

14 (No response.)

15 **THE COURT:** Any redirect?

16 **MS. PERRY:** No, Your Honor. Thank you.

17 **THE COURT:** Thank you very much, sir.

18 **THE WITNESS:** Thank you, Your Honor.

19 **THE COURT:** You are excused.

20 (Witness excused.)

21 **THE COURT:** All right. I'm assuming this might be a
22 good time for the mid-afternoon break.

23 **MS. HOFFMAN:** Sure. Thank you.

24 **THE COURT:** So the ladies and gentlemen of the jury
25 are excused.

1 (Jury left the courtroom at 3:40 p.m.)

2 **THE COURT:** And, Ms. Perry, just one comment. Perhaps
3 this is all going to be tied up later. There was a lot of
4 video with not a lot happening, so . . .

5 **MS. PERRY:** Yes, Your Honor.

6 **THE COURT:** Okay. We'll excuse the gallery.
7 And who's up after the break?

8 **MS. HOFFMAN:** The Government will be calling
9 Detective Richard Moore, another Homicide detective.

10 **THE COURT:** Okay. And after that?

11 **MS. HOFFMAN:** He is our last witness for today. I
12 think we may even go -- I'm hoping we'll get done by 5:00; but
13 we may go a few minutes past 5:00, depending on cross as well.

14 **THE COURT:** All right. We'll take the recess.

15 (Recess taken.)

16 **THE COURT:** All right. Ready for the jury.
17 Do we have our witness?

18 (Jury entered the courtroom at 4:03 p.m.)

19 **THE COURT:** Do you have another witness?

20 **MS. HOFFMAN:** The Government calls
21 Detective Richard Moore.

22 **THE CLERK:** Please raise your right hand.

23 DETECTIVE RICHARD MOORE, GOVERNMENT'S WITNESS, SWORN.

24 **THE CLERK:** Please be seated.

25 Please speak directly into the microphone.

~~MOORE - DIRECT~~

State and spell your full name for the record, please.

THE WITNESS: My name is Detective Richard Moore. My name is spelled R-I-C-H-A-R-D, M-O-O-R-E.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. HOFFMAN:

Q. Good afternoon, Detective Moore.

A. Good afternoon.

Q. Where are you employed?

A. Baltimore City Police Department.

Q. And what's your unit and title?

A. I'm a Homicide detective.

Q. How long have you worked for the Baltimore Police Department?

A. Approximately 14 and a half years.

Q. And where did you work before that?

A. I worked with the Housing Authority police force.

Q. How long did you work for the Housing Authority?

A. 14 years. It was from 1990, September, to October 2004. And I've been with the Baltimore City from 2004, October, to current.

Q. How long have you been a Homicide detective?

A. Since 2011.

Q. And approximately how many homicides would you say that you've investigated?

~~MOORE~~ - DIRECT

1 **A.** Homicides in which I'm the primary detective?

2 **Q.** Sure, let's start with that.

3 **A.** 53.

4 **Q.** And approximately how many homicide investigations have
5 you been involved in?

6 **A.** Over 500.

7 **Q.** I want to direct your attention to September 29th of 2015.
8 Were you the lead detective on a homicide that occurred on
9 that day?

10 **A.** Yes, ma'am.

11 **Q.** And who was the victim of that homicide?

12 **A.** Brian Johnson.

13 **Q.** I'm showing you Government's Exhibit IND-51.
14 Who are we looking at there?

15 **A.** That's Brian Johnson.

16 **Q.** And did you learn whether he went by any nicknames?

17 **A.** They called him Nutty B.

18 **Q.** Approximately what time did the murder happen on
19 September 29th of 2015?

20 **A.** Our department received notification at 3:15,
21 approximately 3:15 p.m.

22 **Q.** And where was the crime scene located?

23 **A.** The 5200 block of Windsor Mill Road.

24 **Q.** I'm going to show you Government's Exhibit MAP-34.

25 And can you point on this map to approximately where the

~~MOORE - DIRECT~~

1 crime scene was.

2 A. Yes. You can see where I'm pointin' from here?

3 Q. You should be able to touch your screen in front of you,
4 and it will come up on the screen.

5 A. Okay. I touched it.

6 Q. Oh, I see. So it looks like you made a little dot near
7 the BP gas station; is that right?

8 A. Yes; just around the side of the BP gas station.

9 Q. Did you respond to the crime scene?

10 A. I did, but it was later on. We didn't get notification
11 about the victim actually dying until it was 8:10 p.m.

12 Q. Where did you go first?

13 A. I went to Sinai Hospital. And I met with the victim's
14 next of kin, who was Ronea Johnson, his mother. And then I
15 responded over to the crime scene.

16 Q. And maybe -- you might have just mentioned this, but what
17 was the victim's condition when you responded to the crime
18 scene? Had he passed away?

19 A. Yes. Dr. Parks pronounced him deceased at, I believe it
20 was 6:53 p.m.

21 Q. Was there any evidence recovered from -- well, first, let
22 me ask you this: Did you attend the autopsy of the victim?

23 A. Yes. It was the next day, on September the 30th, 2015.
24 Dr. Locke was the doctor, the pathologist.

25 Q. And can you tell me, just generally speaking, what were

~~MOORE - DIRECT~~

1 the nature of Mr. Johnson's wounds or wound.

2 **A.** He had a single gunshot wound. It entered through the
3 left side, front side of his body, went through, I think, his
4 liver, his stomach, and then through his kidney; came out
5 his -- the left side of his left flank.

6 **Q.** I want to turn back to the crime scene.

7 Was there any evidence recovered from the scene?

8 **A.** There was a .40-caliber cartridge case that was recovered
9 from the scene.

10 **Q.** And --

11 **A.** And there was also like a green Buick LeSabre that was
12 recovered from the scene or towed from the scene and also the
13 victim's vehicle, which was, I think, a 2002 Lexus, car.

14 **Q.** Were there any surveillance cameras in that area?

15 **A.** Yes, ma'am.

16 **Q.** And were you able to collect surveillance footage?

17 **A.** Yes, ma'am.

18 **Q.** And where was surveillance footage collected from?

19 **A.** There's a check cashing -- there's a Windsor
20 Check Cashing Express that's located at 5209 Windsor Mill Road.
21 They have two interior cameras that face the parking lot where
22 the homicide happened. And they also have four exterior
23 cameras. One is located directly in the rear of the store,
24 which is the 5200 block of Muth Street, and then there is one
25 on the side of the store. And then there's two in the front.

~~MOORE - DIRECT~~

1 Q. And was there another establishment where surveillance
2 footage was collected from?

3 A. Yes, ma'am. It was called the Convenient Food Market, and
4 in that location they had interior cameras that faced out
5 through the glass storefront.

6 Q. I'm showing you Government's Exhibit CS-5-2.

7 And can you tell us what we're looking at here.

8 A. Okay. That's the check cashing at Windsor Express and the
9 Convenient Food Market.

10 Q. And are those the two establishments where surveillance
11 footage was recovered from?

12 A. Yes, ma'am.

13 Q. And can you tell us what, if any, relevance this vehicle
14 has right here (indicating) --

15 A. The victim --

16 Q. -- to your investigation?

17 A. -- was located in the backseat of this vehicle.

18 Q. Did you -- well, let me show you Government's
19 Exhibit CS-5-3.

20 And what are we looking at here?

21 A. It's the same vehicle from a different angle. It's a
22 green Buick LeSabre. It's a 1999. That's the year.

23 Q. I'm going to show you Government's Exhibit CS-5-5.

24 And what are we looking at here?

25 A. Detective Jimmy Dease, the Convenient Food Market in which

~~MOORE - DIRECT~~

1 the incident occurred in front of. You could see the broken
2 glass where the victim -- after he was shot, he fell through
3 this window and landed inside the store on his back.

4 Q. And I'm going to show you Government's Exhibit CS-5-6.

5 And what are we looking at here?

6 A. That's a closer view, and you can see actually inside the
7 store through the broken glass. You can see suspected blood on
8 the ground, and you can see the broken glass and the sign that
9 was in the window that fell onto the floor when the victim fell
10 through the glass window.

11 Q. And Government's Exhibit CS-5-7, what are we looking at
12 here?

13 A. That's an interior still photo from the video of the same
14 locations, just from the inside of the store showing the same
15 area of the floor, the glass, the suspected blood where the
16 victim was found.

17 Q. And CS-5-8, what are we looking at here?

18 A. Different angle, still photo from the -- from inside the
19 store showing the same location, just a different angle.
20 Everything is the same.

21 Q. And Government's Exhibit CS-5-9, what are we looking at
22 here?

23 A. That's the cartridge case that was recovered.

24 Q. And, finally, CS-5-10, what are we looking at here?

25 A. Okay. That's looking from the side angle of the store.

~~MOORE~~ - ~~DIRECT~~

1 You actually can see cameras on the side wall there. That's
2 the side of the Check Cashing Express.

3 Q. And can you tell us what this is with the green awning
4 here (indicating).

5 A. That's the BP gas station.

6 Q. Did you review the footage on the surveillance camera
7 systems that you just mentioned?

8 A. Yes, ma'am.

9 Q. I'm going to approach and show you Government's
10 Exhibit SF-7. (Handing.)

11 Do you recognize that exhibit?

12 A. Yes, ma'am.

13 Q. And what is it?

14 A. It's -- it's actually a video footage from both locations
15 on this disc.

16 Q. And is it a fair and accurate compilation of the video
17 surveillance footage you've just been discussing?

18 A. Yes, ma'am.

19 Q. I'm going to play you some of that footage. But before I
20 do that, I want to show you Government's Exhibit IND-53.

21 Are you familiar with this person?

22 A. Yes, ma'am. That's Dontray Johnson, a/k/a Gambino,
23 a/k/a Bino, a/k/a Tray.

24 Q. And did you have an occasion to speak with him in person
25 during your investigation?

~~MOORE - DIRECT~~

1 **A.** Yes, ma'am.

2 **Q.** And when was that?

3 **A.** October the 4th.

4 **Q.** 2015?

5 **A.** 2015.

6 **Q.** And what were the circumstances in which you talked to
7 him?

8 **A.** He was arrested, and he was brought to our office. And I
9 attempted to do -- conduct an interview with him.

10 **Q.** When you met with him in person, were you able to observe
11 his height and his build?

12 **A.** Yes.

13 **Q.** Were you able to observe how Dontray Johnson walked?

14 **A.** Yes.

15 **Q.** All right. I'm going to show you Government's
16 Exhibit IND-58.

17 Do you recognize that individual?

18 **A.** Yes, ma'am.

19 **Q.** Who is that?

20 **A.** That's Melvin Lashley.

21 **Q.** And did you have an occasion to speak with him in person
22 during your investigation?

23 **A.** Yes, ma'am.

24 **Q.** And do you remember when that was?

25 **A.** It was October the 19th, 2015, if I'm not mistaken.

~~MOORE~~ - ~~DIRECT~~

1 Q. When you spoke to Mr. Lashley, were you able to observe
2 his height and his build?

3 A. Yes.

4 Q. Were you able to observe how he walked?

5 A. Yes, ma'am.

6 Q. All right. I'm going to pull up Government's
7 Exhibit SF-7, which you identified as the surveillance video
8 footage.

9 And I'm going to play you some clips of the footage
10 beginning from seven minutes of this recording.

11 (Video played.)

12 BY MS. HOFFMAN:

13 Q. And I'm going to pause it here for a minute.

14 Can you read the date and timestamp up here in the corner
15 (indicating).

16 A. This is 9/29/2015, Tuesday, p.m., 3:06:37.

17 Q. And when you watched this video surveillance footage --
18 well, first of all, which establishment is this video
19 surveillance footage from?

20 A. That's from the Windsor Check Cashing Express.

21 Q. And when you watched the footage there, were you able to
22 determine whether the timestamp was accurate?

23 A. Yes. It's fairly accurate.

24 Q. I'm going to keep playing a bit.

25 (Video played.)

~~MOORE - DIRECT~~

BY MS. HOFFMAN:

Q. Do you see this gentleman on the left here wearing black clothing (indicating)?

A. Yes, yes, ma'am.

Q. And can you indicate -- have you reviewed this footage before coming in here today?

A. Yes, ma'am; several times.

Q. And can you tell us, for the record, what, if any, role he has in the homicide that we're about to see, in the footage we're about to see.

A. He's the shooter.

Q. I'm going to keep playing.

(Video played.)

BY MS. HOFFMAN:

Q. I'm going to pause here. Obviously, we just switched camera angles. Can you tell us which camera we're viewing here.

A. That's the camera that's inside the food mart, the Convenient Food Market.

Q. And would you mind reading the date and time here (indicating).

A. It says 9/29/2015, 2:04 p.m.

That -- that time is about an hour off.

Q. Is it an hour behind or ahead?

A. Behind.

~~MOORE - DIRECT~~

1 Q. Behind. Thank you.

2 I'm going to continue playing.

3 (Video played.)

4 BY MS. HOFFMAN:

5 Q. And can you tell us again what, if any, role this
6 individual here (indicating) had in the shooting we just saw.

7 A. The guy gettin' inside the car is the shooter; inside the
8 silver Acura is the shooter.

9 Q. That was going to be my next question as to whether you
10 could describe that car. You said it's a silver Acura?

11 A. Yeah; four-door, tinted windows, sunroof.

12 Q. I'm going to continue playing.

13 (Video played.)

14 BY MS. HOFFMAN:

15 Q. Now we're switching to a different camera angle.

16 (Video played.)

17 BY MS. HOFFMAN:

18 Q. I'm going to pause here and skip ahead.

19 (Video played.)

20 BY MS. HOFFMAN:

21 Q. And I believe you testified earlier about this vehicle
22 here (indicating). And can you explain what happened with this
23 vehicle.

24 A. It was -- an unknown person drove the vehicle to the front
25 of the store. Two people then carried the victim from the

~~MOORE - DIRECT~~

1 store, from the Convenient Food Market, and put him in the
2 backseat of the vehicle. And then they left the victim in the
3 backseat of the vehicle and they left. The medic came a
4 little -- short period of time after that.

5 **Q.** I'm going to continue playing.

6 (Video played.)

7 **MS. HOFFMAN:** Now we're looking at a different camera
8 angle.

9 (Video played.)

10 **BY MS. HOFFMAN:**

11 **Q.** Detective Moore, I'm going to approach and show you
12 Government's Exhibits SF-7, A through Z. (Handing.)

13 And can you tell me, generally speaking, what you're
14 looking at there.

15 **A.** These are still photos from the surveillance camera that's
16 located inside the Convenient Food Market.

17 **Q.** Just let me know when you're ready.

18 **A.** I'm ready.

19 **Q.** I'm going to pull up Government's Exhibit SF-7-A.

20 And I'm also going to pull up Government's Exhibit IND-53,
21 which we looked at a minute ago.

22 Based on your in-person observations of Mr. Johnson on the
23 right, of his height and build and the way he walked, were you
24 able to determine whether he's consistent or inconsistent with
25 the shooter in this video, who you identified as the person

~~MOORE - DIRECT~~

1 over here in all black (indicating)?

2 **A.** Yes. That's Dontray, Dontray Johnson.

3 **Q.** I'm going to show you Government's Exhibit SF-7-D, and
4 what are we looking at here?

5 **A.** It's Dontray Johnson again.

6 **Q.** Government's Exhibit SF-7-T, and what are we looking at,
7 the still photo on the left here?

8 **A.** That's Dontray Johnson shootin' at Brian Johnson right
9 before he fell through the window. He had his arm extended
10 with the gun inside his right hand.

11 **Q.** I'm going to show you Government's Exhibit SF-7-U. And
12 what are we looking at SF-7-U on the left here?

13 **A.** That's Dontray Johnson getting ready to come inside the
14 Convenient Food Market.

15 There's another person over to the left who I recognize,
16 too.

17 **Q.** Okay. And we may get to him in a minute.

18 Let me show you SF-7-V.

19 **A.** That's Dontray Johnson when he [sic] inside the store from
20 a different angle.

21 **Q.** And SF-7-Y. And what are we looking at here?

22 **A.** That's Dontray Johnson outside the store pointin' the gun
23 at Brian Johnson as he's falling through the glass window.

24 **Q.** And, finally, SF-7-Z.

25 **A.** That's same -- same view; just Brian Johnson is further

~~MOORE - DIRECT~~

1 through the window, the broken-glass window and Dontray Johnson
2 is outside walking away, but he's still pointin' the gun in the
3 direction of Brian Johnson.

4 Q. I'm going to show you Government's Exhibit SF-7-D.

5 And were you ever able to identify this person
6 (indicating)?

7 A. No, ma'am.

8 Q. I'm going to show you Government's Exhibit SF-7-E. So,
9 again, you are not able to identify this person (indicating)?

10 A. No, ma'am.

11 Q. And I'm going to show you SF-7-F.

12 And what are we looking at here?

13 A. It's the still photo from the surveillance camera footage.
14 Three black males are inside the photo.

15 Q. And SF-7-G.

16 A. It's the same camera. Now it's two black males inside the
17 photo.

18 Q. I'm going to show you Government's Exhibit IND-56.

19 Do you recognize that individual?

20 A. Yes, ma'am.

21 Q. Who is that?

22 A. That's Dominic Kane, a/k/a Fish, a/k/a Craig.

23 Q. And I'm going to show you Government's Exhibit SF-7-H.

24 And looking at SF-7-H on the left side of the screen, were
25 you able to determine whether the person in the black hat and

~~MOORE - DIRECT~~

1 black T-shirt here (indicating) is consistent or inconsistent
2 with the person you've identified as Dominic Kane or Fish or
3 Craig?

4 **A.** Yes. That's Dominic Kane.

5 **Q.** I'm going to show you Government's Exhibit SF-7-I.

6 And what are we looking at there on the left side of the
7 screen?

8 **A.** Just him -- same view, camera view, just Dominic Kane a
9 little further inside the store.

10 **Q.** And, for the record, was Mr. Kane one of the people who --
11 was he in the group of people who confronted the victim prior
12 to his death in the video we just saw?

13 **A.** Yes. He actually was the person that hit the victim, and
14 then he started fightin' with the victim right before
15 Dontray Johnson shot him.

16 **Q.** And I'm showing you Government's Exhibit SF-7-W.

17 And what are we looking at here?

18 **A.** That's Dominic Kane as he's walkin' inside the
19 Convenient Food Market.

20 **Q.** I'm going to show you Government's Exhibit SF-7-J.

21 I'm also going to pull up Government's Exhibit IND-58,
22 which you identified a few minutes ago as Melvin Lashley.

23 Based on your in-person observations of Mr. Lashley, were
24 you able to determine whether this individual here in the black
25 baseball cap and black T-shirt (indicating) was consistent or

~~MOORE - DIRECT~~

1 inconsistent with Mr. Lashley?

2 **A.** That's Melvin Lashley. Yes.

3 **Q.** And I'm going to show you Government's Exhibit SF-7 --
4 well, I'm sorry.

5 For the record, can you tell us in the video we just
6 watched, was Mr. Lashley one of the people who confronted the
7 victim before he was shot?

8 **A.** He was standing directly in front of the victim when the
9 victim walked up to the front of the store. He was standing
10 right there when Dominic Kane hit the victim and they started
11 fightin'. He was standing there the entire time. Even when
12 Dontray Johnson pulled out the gun and shot the victim through
13 the window, he was standing there. And then he walked away
14 with -- in the same direction as Dominic Kane.

15 **Q.** I'm going to show you Government's Exhibit SF-7-K.

16 And what are we looking at there?

17 **A.** Yes. That's Melvin Lashley with his hat turned backwards
18 inside the store camera. It's a still photo of Melvin Lashley.

19 **Q.** And Government's Exhibit SF-7-Q, what are we looking at
20 here?

21 **A.** That's Melvin Lashley with his phone in his right hand
22 looking down at the victim laying on the floor.

23 **Q.** And Government's Exhibit SF-7-R, what are we looking at
24 here?

25 **A.** Pretty much the same thing, Melvin Lashley with the phone

~~MOORE - DIRECT~~

1 in his hand looking down at the victim.

2 Q. And Government's Exhibit SF-7-S.

3 A. Melvin Lashley.

4 Q. As part of your investigation into this homicide, did you
5 review jail recordings of potential relevance to the murder?

6 A. Yes, ma'am.

7 Q. And did you find anything of relevance?

8 A. Yes, ma'am.

9 Q. I'm going to play you some calls from Government's
10 Exhibit JAIL-1, which has come into evidence as a disc of
11 certified jail recordings.

12 And I'm going to start with Call J-29, which the jurors
13 can find on Page 96 of their transcript binders behind the
14 jail call tab.

15 And before we start, would you mind reading the inmate
16 name here (indicating).

17 A. Adrian Spence.

18 Q. And would you mind reading the date of the call.

19 A. It's August 23rd, 2015.

20 Q. I'm going to first play just the first 39 seconds of this
21 call.

22 (Audio was played but not reported.)

23 **BY MS. HOFFMAN:**

24 Q. And now I'm going to skip to 8 minutes and 13 seconds into
25 this call.

~~MOORE - DIRECT~~

1 And before I do that, I should have asked you: The date
2 that you just read, August 23rd of 2015, when is that relative
3 to the murder we've been talking about?

4 **A.** It was a month and six days before the murder, or
5 approximately six days. Maybe seven, 'cause I think there's 31
6 days in August.

7 **Q.** Picking up from 8 minutes and 13 seconds.

8 (Audio was played but not reported.)

9 **BY MS. HOFFMAN:**

10 **Q.** And I'm going to pause it there.

11 And turning to the first page of this transcript, did you
12 hear when the female speaker said [reading]: Tiffany came home
13 and then Gutta out here sending threats and shit, talking about
14 "N" words gotta give up \$150 every week?

15 **A.** Yes.

16 **Q.** And is there anyone who came up in the course of your
17 investigation who went by the name Gutta?

18 **A.** Yes.

19 **Q.** Who is that?

20 **A.** Dante Bailey.

21 **Q.** And was there anyone in your investigation who came up
22 with the name Tiffany?

23 **A.** Yes.

24 **Q.** And who is that?

25 **A.** His wife, Tiffany Bailey.

~~MOORE - DIRECT~~

1 Q. Did you also have occasion to listen to a recorded jail
2 visit?

3 A. Yes.

4 Q. I'm going to show you Government's Exhibit MISC-4, which
5 has come into evidence as a certified log of Dante Bailey's
6 jail visits. And I'm going to show you Page 5.

7 Could you read the first entry that's blown up here on the
8 screen.

9 A. Sure. It says [reading]: 9/29/2015, 19:30 hours, which
10 is 7:30 p.m.

11 Got [reading]: Family/friend, Dontray Samuel Johnson,
12 friend/acquaintance.

13 And it says -- Cliftview Avenue is the address that's used
14 for him. And then --

15 Q. Thank you.

16 Did you listen to the recording of the corresponding jail
17 visit to this entry?

18 A. Yes, ma'am.

19 Q. I'm going to play for you Call J -- or Recording J34,
20 which the jurors can find at Page 110 of the jail call tab of
21 their transcript binders.

22 I'm going to start the recording at 55 seconds in or
23 thereabouts.

24 (Audio was played but not reported.)

25 BY MS. HOFFMAN:

~~MOORE - DIRECT~~

1 Q. Now, I just want to pause it for a minute.

2 You mentioned that you met with Dontray Johnson in person.
3 Are you able to recognize his voice in this recording?

4 A. Yes. That's Dontray Johnson talking and Dante Bailey.

5 (Audio was played but not reported.)

6 BY MS. HOFFMAN:

7 Q. And was there someone who came up in your investigation
8 who went by the name of Craig?

9 A. Dominic Kane, a/k/a Fish, a/k/a Craig.

10 (Audio was played but not reported.)

11 BY MS. HOFFMAN:

12 Q. In the course of your experience as a -- your 14-some
13 years' experience as a Baltimore Police Department officer, are
14 you familiar with the term "girl" or "girls"?

15 A. Yes.

16 Q. And do you know what that refers to?

17 A. It's a street slang for cocaine. Usually they'll just say
18 "girl." They usually don't put an S on the end.

19 (Audio was played but not reported.)

20 BY MS. HOFFMAN:

21 Q. I'm going to skip ahead. I've just stopped at 9 minutes
22 and 22 seconds. And I'm going to skip ahead to 16 minutes and
23 50 seconds.

24 (Audio was played but not reported.)

25 MS. HOFFMAN: And let me see if I can figure out the

~~MOORE - DIRECT~~

1 page number.

2 This is Page 116 of the transcript, of the jail
3 recordings tab.

4 (Audio was played but not reported.)

5 **BY MS. HOFFMAN:**

6 **Q.** And I'm stopping at 17 minutes and 19 seconds. And I'm
7 going to skip ahead to 21 minutes and 4 seconds, which is
8 Page 119 in that tab.

9 (Audio was played but not reported.)

10 **BY MS. HOFFMAN:**

11 **Q.** And I'm pausing at 22 minutes, 33 seconds. And I'm going
12 to skip ahead to 26 minutes and 58 seconds, which is Page 121.

13 (Audio was played but not reported.)

14 **BY MS. HOFFMAN:**

15 **Q.** I'm putting up the first page of the transcript here. And
16 can you tell what the date and time of this recording is
17 (indicating).

18 **A.** It was September the 29th at 19:30 hours, which is
19 7:30 p.m.

20 **Q.** And when is that in relation to the murder?

21 **A.** It's after the murder. The same day, but after the
22 murder.

23 **Q.** I'm turning to the second page of the transcript. Did you
24 hear when Johnson said [reading]: Yeah, he -- he -- he slapped
25 him first?

~~MOORE - DIRECT~~

1 **A.** Yes.

2 **Q.** And did you hear when he said Craig slapped him first?

3 **A.** Yes.

4 **Q.** Did you hear when Johnson said he was trying to fight
5 back?

6 **A.** Yes, ma'am.

7 **Q.** Page 3 of the transcript, did you hear when --

8 **MS. WHALEN:** Objection, Your Honor.

9 **THE COURT:** Do you want to come up to the bench.

10 **MS. WHALEN:** We can. Certainly.

11 (Bench conference on the record:

12 **MS. WHALEN:** I would suggest it's improper use of the
13 transcript. The evidence is the recording. And what the
14 Government is attempting to do is say, Did you hear? And
15 instead of using the recording, they're using the transcript,
16 which is just an aid of what's in the recording.

17 So since we've gone over it and they've seen the
18 transcript, heard the call, I would suggest it's improper use.

19 **MS. HOFFMAN:** So, Your Honor, there is one part of the
20 call, as you heard, that is muffled whispering. And this
21 particular detective, we've -- he's listened to this recording
22 probably dozens of times, and so I did want to ask him about
23 that portion and ask him if he heard what's in this transcript.
24 He assisted in preparing it.

25 **THE COURT:** I think it was clear when you asked him

1 the question that it's what he heard on the recording. He's
2 saying that he thinks the transcript is accurate, but it's got
3 to be what he heard on the recording.

4 **MS. WHALEN:** But I think it's what the jury hears and
5 not what this officer hears. So now what we're going into is
6 this officer heard that; and, therefore, the jury must hear it.
7 And I think he's invading the province of the jury at this
8 point in evaluating the evidence.

9 **MS. HOFFMAN:** Well, I mean, we could play that portion
10 of the call again. I know that Ms. Whalen had earlier objected
11 to us playing that portion of the call again.

12 I do think it's important and that this witness has
13 listened to it over and over again and is confident that that
14 is what he's heard him saying, and so I would like to either
15 play it again or ask him whether the transcript here is correct
16 and if that's what he heard.

17 **THE COURT:** I think it's appropriate generally when
18 you're authenticating and you're saying the transcript, there's
19 usually someone who testifies that they've listened to the call
20 and they believe the transcript is accurate.

21 I'm happy to remind the jury that what they hear is
22 what controls and not what the witness heard. And if they can
23 do something different than what they heard --

24 **MS. WHALEN:** And so would the Government be limited
25 to: Have you reviewed the transcript? You reviewed the call,

1 and you believe that the transcript's accurate? As opposed to
2 what she wants to do is go back over the specific words in the
3 whispering portion and ask him --

4 **THE COURT:** She's going to be allowed to highlight
5 certain portions out of the transcript. This is a very lengthy
6 and complex case. There are pieces of the evidence that are of
7 greater significance and/or may require greater explanation
8 than others of it. There are a couple of passages that she
9 wants to ask him about, and you all can do the same thing.

10 **MS. WHALEN:** I guess that's my next question with the
11 timing. Would we do cross today?

12 **THE COURT:** Do you know what the witness's schedule
13 is --

14 **MS. HOFFMAN:** I think I have --

15 **THE COURT:** -- or how much more you have?

16 **MS. HOFFMAN:** -- maybe another five minutes.

17 **THE COURT:** Okay. Do you have an idea of how long you
18 would be?

19 **MS. WHALEN:** I don't know exactly. I'm digesting how
20 much I do given Your Honor's ruling.

21 **THE COURT:** Well, I think we should rather finish him
22 and recess for the day unless you're aware of some absolute
23 reason that he can't come back.

24 **MS. HOFFMAN:** No. I think we can finish with him in
25 five minutes, and we're happy to go longer if defense would

~~MOORE - DIRECT~~

1 like or bring him back in the morning. Whatever works.

2 **THE COURT:** Would you prefer that he come back in the
3 morning?

4 **MS. WHALEN:** I think so, if he can.

5 **THE COURT:** Okay. Sure.)

6 (Bench conference concluded.)

7 **BY MS. HOFFMAN:**

8 **Q.** Detective Moore, I wanted to focus your attention on
9 Page 4 of the transcript here. It's about 7 minutes, 20
10 seconds into the recording we just listened to.

11 Have you listened to this recording a number of times?

12 **A.** Yes.

13 **Q.** And have you reviewed this transcript?

14 **A.** Yes.

15 **Q.** And is this transcript -- does this transcript reflect
16 what you heard in the recording?

17 **A.** Yes, ma'am.

18 **Q.** And did you hear Mr. Bailey say [reading]: I told you
19 about this. Blow his fucking head off. Blow another "N"
20 word's head off. I said I'm through with 'em. Don't play with
21 'em. Make 'em scared?

22 **A.** Yes, ma'am.

23 **THE COURT:** Let me just take this opportunity, of
24 course, to remind the jury that the recording is what is the
25 evidence, not the transcript. And the ultimate question is

~~MOORE - DIRECT~~

1 what you all hear on the recording. That's the evidence, what
2 you hear. The transcript is just an aid.

3 **BY MS. HOFFMAN:**

4 **Q.** Detective Moore, I'd like to play you one more call, and
5 this is Call J-34.

6 **MS. HOFFMAN:** It's on Page 110 of the jurors'
7 transcript binders behind the jail recordings tab.

8 **THE COURT:** What page?

9 **MS. HOFFMAN:** It should be Page 110 behind the jail --
10 oh, no. I'm sorry. I just went to the same exact thing that I
11 just did.

12 What I meant was, I'm sorry, J-36, which is on
13 Page 130 of the jail call tab.

14 **THE COURT:** 130. Okay.

15 **MS. HOFFMAN:** Yes.

16 **BY MS. HOFFMAN:**

17 **Q.** And I believe you testified earlier, Detective Moore, that
18 Dontray Johnson was arrested on October 4th of 2015; is that
19 right?

20 **A.** That's correct.

21 **Q.** And did you have occasion to listen to any jail calls that
22 Dontray Johnson made after his arrest?

23 **A.** Yes.

24 **Q.** And I'd like to, before I start playing the call, ask you
25 if you could read the inmate name for this call. I'm so sorry.

~~MOORE~~ - ~~DIRECT~~

1 **A.** Inmate name is Dontray Johnson.

2 **Q.** And can you tell us the date.

3 **A.** October the 7th, 2015.

4 **Q.** And about how long is that after the murder of Nutty B?

5 **A.** Eight days.

6 **Q.** I'm going to play you, first, just a short snippet from
7 23 seconds to 30 seconds.

8 (Audio was played but not reported.)

9 **BY MS. HOFFMAN:**

10 **Q.** And I'm going to skip ahead to 10 minutes and 25 seconds.

11 (Audio was played but not reported.)

12 **BY MS. HOFFMAN:**

13 **Q.** Detective Moore, were you able to recognize the voice of
14 the male speaking in that call?

15 **A.** Yes, ma'am.

16 **Q.** And who is it?

17 **A.** Dontray Johnson.

18 **Q.** And did you hear when Mr. Johnson said [reading]: I need
19 you to go over there and holler at yo?

20 **A.** Yes.

21 **Q.** Did you hear when he said [reading]: Tell him I need 500
22 or a thousand or something to my lawyer?

23 **A.** Yes.

24 **Q.** And did you hear when he said [reading]: His name Dirt?

25 **A.** Yes.

~~MOORE - DIRECT~~

1 **MS. HOFFMAN:** I have no further questions.

2 **THE COURT:** All right. Ladies and gentlemen, I think
3 it's a bit late to start on cross-examination. Will you be
4 able to come back tomorrow, sir?

5 **THE WITNESS:** Yes, ma'am.

6 **THE COURT:** Okay. All right. We're going to start by
7 excusing the -- ah, before I excuse the ladies and gentlemen, I
8 just want to tell you one thing more about the schedule.

9 We will have a full day tomorrow. I'll ask you to
10 come back at 10:00.

11 On Wednesday I am asking you -- it will just be a half
12 a day. It will be the afternoon. I will be asking you to come
13 back Wednesday at 2:00. So you will not be here in the morning
14 on Wednesday.

15 And then Thursday it's a full day again.

16 And you will not be here on Friday. Okay?

17 So that's the schedule for the week.

18 So for right now, thank you very much. Have a good
19 evening. Leave your notes here. Don't talk about the case.
20 And we'll see you at 10:00 tomorrow.

21 (Jury excused at 5:14 p.m.)

22 **THE COURT:** All right. Thank you.

23 The witness can be excused.

24 Thank you, sir.

25 **THE WITNESS:** Okay.

1 (Witness excused.)

2 **THE COURT:** All right. And the gallery is free to
3 leave.

4 Actually, before I excuse everyone else, can you give
5 us an idea of witnesses after the detective finishes.

6 **MS. HOFFMAN:** Yes. So after Detective Moore, it will
7 be Dr. James Laron Locke. He's a Medical Examiner.

8 And then we believe the next witness will be Don Rudy,
9 a Special Agent who forensically examined or assisted with the
10 forensic examination of the phones, cell phones in the case.

11 The next witness will be Mark Fisher, a detective,
12 Baltimore County detective, and then another Baltimore County
13 Detective named Trae Corbin.

14 **THE COURT:** Okay. Any issues that anybody anticipates
15 particularly as to those, any of those witnesses?

16 **MS. WHALEN:** Your Honor, we have a signed stipulation
17 that I think is right here for the Medical Examiner by all
18 parties.

19 **THE COURT:** Oh.

20 **MS. HOFFMAN:** Your Honor, we had let counsel know over
21 the weekend, we have now met with the Medical Examiners. And
22 Dr. Locke has -- well, two of them have kind of shifted things
23 around in order to be here today, and we didn't go over
24 anything from the autopsy with the detectives who testified
25 today. And so we do, at the very least, intend to call

1 Dr. Locke tomorrow.

2 But in addition, what we had told defense counsel is
3 that, given that we've now met with the Medical Examiners and
4 they've taken time out of their busy lives to prepare to
5 testify, that we would stipulate to the Medical Examiners if
6 the defendants are willing to stipulate to the chemists.

7 **THE COURT:** All right. Well, you all can continue
8 those conversations. Otherwise, we'll hear from Dr. Locke
9 tomorrow, at least.

10 Anything else?

11 **MS. HOFFMAN:** I did just want to flag for Your Honor
12 that we believe that the first ballistic expert, James Wagster,
13 may testify. As early as this Thursday, we might get to him.
14 So I just wanted to put that on the radar.

15 **THE COURT:** Ballistics. Okay. I've got ballistics
16 here.

17 Cell site, is that this week?

18 **MS. HOFFMAN:** I think that won't be until next week.

19 **THE COURT:** Next week. Okay.

20 **MS. WHALEN:** I think this -- I will be speaking for
21 everyone that -- can we get some exhibits for the agent who
22 assisted in the cell phones? 'Cause I think everyone's
23 cell phone was intercepted, and we have no idea what that agent
24 will be doing.

25 **THE COURT:** Okay.

1 **MS. HOFFMAN:** Sure. So the -- Don Rudy, we will be
2 qualifying -- asking to qualify him as an expert, and we've
3 given the defense counsel certifications; and I know 214
4 certifications for all the cell phones in the case.

5 And so what we plan to do with him actually was not to
6 go through any of the cell phone excerpts, but he has carefully
7 reviewed all of them and compared them to the full extraction
8 reports for all of the phones that we'll be introducing.

9 And so the plan is simply to have him testify
10 regarding the examination, the general practices used to
11 examine those phones, and the fact that the excerpts that we
12 are introducing are accurate excerpts from the cell phone
13 extraction reports.

14 But we will not be having him -- so he will talk about
15 all, I believe it's 16 of the cell phone excerpts inasmuch as
16 he'll say that they're accurate portions of the extraction
17 reports, but he won't be walking through the actual text.

18 **THE COURT:** Okay. All right. Anything else?

19 All right. Then we'll be in recess until 10 o'clock
20 tomorrow.

21 (Court adjourned at 5:19 p.m.)
22
23
24
25

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I, Douglas J. Zweizig, RDR, CRR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

/s/

Douglas J. Zweizig, RDR, CRR, FCRR
Registered Diplomate Reporter
Certified Realtime Reporter
Federal Official Court Reporter
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